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federal register

Tuesday
August 19, 1980

Highlights

55249 **Grant Programs—Housing** USDA/FmHA gives notice of self-help rehabilitation/repair assistance grants

55282 **Grant Programs—Education** HHS/PHS publishes notice regarding first-year student enrollment decreases for health professions schools

55141-55166 **Loan Programs—Crops** USDA/CCC revises basic county loan and purchase rates in accordance with national average loan and purchase rates of certain 1979 crops; effective 1-8-80 (6 documents)

55214 **Credit Unions** NCUA request comments by 9-15-80 regarding financial condition and statement of income and expense

55382 **Social Security** HHS/HDSO publishes regulations regarding disclosure by providers of certain ownership interests and other information (Part IV of this issue)

55223 **Housing** HUD/Sec'y publishes proposal regarding siting of HUD-assisted projects near hazardous operations; comments by 10-20-80

55346 **Government Procurement** FEMA establishes procedures for acquisition of personal property and nonpersonal services; effective 8-14-80 (Part II of this issue)

CONTINUED INSIDE

Highlights

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There are no restrictions on the republication of material appearing in the **Federal Register.**

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

55402 **Radioactive Materials** NRC upgrades emergency planning regulations; effective 11–3–80 (Part VIII of this issue) (2 documents)

55374 **Oil** DOE/ERA adopts procedures for distribution of Strategic Petroleum Reserve crude oil; effective 9–18–80 (Part III of this issue)

55386 **Waste Treatment** EPA publishes regulations regarding the hazardous waste management system (Part V of this issue)

55213 **Environmental Protection** FCA proposes policy statement on implementation of National Environmental Policy Act; comments by 10–20–80

55205 **Railroads** ICC exempts State acquisition of abandoned rail lines from certain regulations; effective 9–18–80

55223 **Petroleum** FTC publishes proposal regarding deceptive advertising and labeling of previously used lubricating oil; comments by 9–18–80

55172 **Consumer Safety** HHS/FDA requires warning label for bubble bath products; effective 8–19–80

55257 **Petroleum Allocation** DOE/ERA issues supplemental allocation notice for 7–1 through 9–30–80 period for Canadian crude oil

55394 **Pesticide** FMCS appoints arbitrators to assist pesticide producers in resolution of disputes over value of technical data; effective 9–18–80 (Part VII of this issue)

55252 **Import** CITA increases import restraint levels for certain man-made fiber textile products from Singapore; effective 8–18–80

55317 **Sunshine Act Meetings**

Separate Parts of This Issue

55346 **Part II, FEMA**
55374 **Part III, DOE/ERA**
55382 **Part IV, HHS/HDSO**
55386 **Part V, EPA**
55390 **Part VI, USDA/FGIS**
55394 **Part VII, FMCS**
55402 **Part VIII, NRC**

Contents

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 1980

Agricultural Marketing Service
RULES
55140 Oranges (Valencia) grown in Ariz. and Calif.
PROPOSED RULES
Milk marketing orders:
55213 Nebraska-Western Iowa

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration; Federal Grain Inspection Service.
NOTICES
Meetings:
55249 Equal Opportunity Citizen's Advisory Committee

Animal and Plant Health Inspection Service
NOTICES
Environmental statements; availability, etc.:
55248 Biocontrol Laboratory, Moore Air Base, Mission, Tex.
55248 National Monitoring and Residue Analysis Laboratory, construction; Gulfport, Miss.

Arms Control and Disarmament Agency
NOTICES
Meetings:
55249 General Advisory Committee

Arts and Humanities, National Foundation
NOTICES
Meetings:
55300 Design Arts Panel
55299 Folk Arts Panel
55300 Museum Panel (3 documents)

Civil Aeronautics Board
NOTICES
Hearings, etc.:
55250 Trans-Panama, S.A.

Commerce Department
See also International Trade Administration; Maritime Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.
NOTICES
Meetings:
55252 Economic Advisory Board

Commodity Credit Corporation
RULES
Loan and purchase programs:
55141 Barley
55144 Corn
55166 Cotton; correction
55153 Oats
55158 Rye
55149 Sorghum
55159 Wheat

Commodity Futures Trading Commission
NOTICES
55317 Meetings; Sunshine Act

Defense Department
See Defense Logistics Agency.

Defense Logistics Agency
NOTICES
Environmental statements; availability; etc.:
55252 FS Smoke; disposal

Delaware River Basin Commission
NOTICES
55253 Comprehensive plan, water supply and sewage treatment plant projects; hearings

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
55374 Crude oil; distribution and pricing of strategic petroleum reserve
NOTICES
Canadian allocation program:
55257 Crude oil, July through September
Powerplant and industrial fuel use; existing powerplant or installation; prohibition orders, exemption requests, etc.:
55254 Convent Chemical Corp.
55258 General Electric Co.

Education Department
NOTICES
Meetings:
55253 Career Education National Advisory Council

Energy Department
See Economic Regulatory Administration; Hearings and Appeals Office, Energy Department.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
55197 Illinois; correction
55179 Maryland
55178 Pennsylvania
55180 Virginia
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
55198 Formulations; inert ingredients
55199 Oxalic acid
55197 Tetrahydro-5,5-dimethyl-2(1H)-pyrimidinone (3-(4-(trifluoromethyl)phenyl)-1-(2-(4(trifluoromethyl)phenyl) ethenyl)-2-propenylidene)hydrazone
Waste management, solid:
55386 Hazardous waste regulations; amendments, interpretations, and answers to questions; notice of intent
Water pollution; effluent guidelines for point source categories:
55200 Electroplating; correction

PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
55227 Minnesota
55228, 55229 Virginia (2 documents)
55230 Wisconsin; correction
Air quality planning purposes; designation of areas:
55231 California
Air quality surveillance, ambient:
55230 Pennsylvania; State and local air monitoring stations
Waste management, solid:
55232 Hazardous waste regulations; amendments, interpretations, and answers to questions; notice of intent; cross reference
NOTICES
Pesticide registration, cancellation, etc.:
55269 Antifouling red/gray, etc.
Pesticides; emergency exemption applications:
55270 Fenvalerate; correction
Pesticides; experimental use permit applications:
55270 UpJohn Co. et al.
Pesticides; temporary tolerances:
55270 Hercon Products Group
Pesticides; tolerances in animal feeds and human food:
55268 Monsanto Co. et al.
Toxic and hazardous substances control:
55268 Premanufacture notices receipts

Environmental Quality Office, Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
55282 Fairway Apartments, Fulton County, Ga., et al.

Equal Employment Opportunity Commission
NOTICES
55317 Meetings; Sunshine Act

Farm Credit Administration
PROPOSED RULES
55213 National Environmental Policy Act; implementation; policy statement

Farmers Home Administration
NOTICES
Rural housing loans and grants:
55249 Self-help rehabilitation/repair assistance grants

Federal Communications Commission
RULES
Radio services, special:
55200 Land mobile services; regional spectrum management program in Chicago; termination of proceeding
Radio stations; table of assignments:
55205 Alaska
55201 Arizona
55202 Colorado
55202 Georgia and North Carolina
Television stations; table of assignments:
55204 California
55203 Kentucky
55203 Oregon
PROPOSED RULES
Radio and television broadcasting:
55242 Representation of stations by representatives owned by competing stations in same area
Radio services, special:
55245 Land mobile services; use of digital voice modulation in power radio service
Radio stations; table of assignments:
55237 Colorado
55240 Utah
55238–55241 Washington (2 documents)
55239 Wisconsin
Television stations; table of assignments:
55244 North Carolina et al.
NOTICES
Hearings, etc.:
55271 Trinity Broadcasting of Denver, Inc., et al.
Meetings:
55272 National Industry Advisory Committee
55271 Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies

Federal Emergency Management Agency
RULES
55346 Procurement; personal property and nonpersonal services
PROPOSED RULES
Flood elevation determinations:
55232 Kansas; correction
55236 Pennsylvania
55234 Virginia
55233 Washington

Federal Grain Inspection Service
NOTICES
Grain standards; inspection points:
55392 Iowa
55390, 55391 North Dakota (2 documents)
55390 Texas

Federal Home Loan Bank Board
NOTICES
55317 Meetings; Sunshine Act

Federal Maritime Commission
NOTICES
55273 Agreements filed, etc.
Freight forwarder licenses:
55274 Jovanovic, Dusan et al.
55274 Peninsula Air Delivery

Federal Mediation and Conciliation Service
RULES
55394 Pesticide data disputes; arbitration procedures

Federal Reserve System
NOTICES
Applications, etc.:
55274 Arbuckle Bancorp., Inc.
55276 Bellevue Service Co.
55274 Chemical New York Corp. et al.
55276 Chickasha Bancshares, Inc.
55276 Citibank Interamerica
55276 First Alabama Bancshares, Inc.
55276 First Bank Holding Co. of Colorado
55277 How-Win Development Co.

55277 Iowa Bancorporation
55278 Jasper Investment Co., Inc.
55278 MilWisc Bancorp, Inc.
55278 National Bancshares, Inc.
55278 Norlo, Inc.
55278 P & D Co. of Stewartville, Inc.
55279 Southeast Bancshares, Inc.
55279 Southwestern Investment Co.
55279 Union International Bank
55279 United Citizens Bancshares, Inc.
55280 Valley State Investments, Inc.
55317 Meetings; Sunshine Act

Federal Trade Commission
RULES
Prohibited trade practices:
55171 Lesko, Terrance D., M.D.
PROPOSED RULES
55223 Lubricating oil, previously used; deceptive advertising and labeling; enforcement policy statement
Prohibited trade practices:
55219 Universal Bodybuilding, Inc. et al.
NOTICES
Premerger notification waiting periods; early terminations:
55280 Continental Grain Co.
55280 Digital Equipment Corp.

Fiscal Service
RULES
55178 Bonds, U.S. retirement plan; interest rates; correction

Fish and Wildlife Service
RULES
Hunting:
55210 Conboy Lake National Wildlife Refuge, Wash., et al.

Food and Drug Administration
RULES
Cosmetics:
55172 Bubble bath products; warning label
NOTICES
55281 Tomato juice; identity standard; temporary permits for market testing

General Services Administration
NOTICES
Authority delegations:
55281 Defense Department Secretary

Health, Education, and Welfare Department
See Education Department; Health and Human Services Department.

Health and Human Services Department
See Food and Drug Administration; Health Resources Administration; Health Services Administration; Human Development Services Office; National Institutes of Health.

Health Resources Administration
NOTICES
Grants; availability, etc.:
55282 Health professions schools; first-year student enrollment decreases

Health Services Administration
NOTICES
Meetings; advisory committees:
55281 September

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
55260 Cases filed
55262, 55265 Decisions and orders (2 documents)
Remedial orders:
55267 Objections filed

Heritage Conservation and Recreation Service
NOTICES
Historic Places National Register; additions, deletions, etc.:
55283 Florida et al.

Housing and Urban Development Department
See also Environmental Quality Office, Housing and Urban Development Department.
PROPOSED RULES
Environmental criteria and standards:
55223 Danger zones around hazardous operations; handling of conventional fuels or explosive chemicals, etc.

Human Development Services Office
RULES
Social services programs for individuals and families:
55382 Disclosure of ownership interests, etc.

Justice Department
See Parole Commission.

Interior Department
See Fish and Wildlife Service; Heritage Conservation and Recreation Service; Land Management Bureau.

Internal Revenue Service
NOTICES
55250 Merchant marine and fisheries capital construction funds; applicable interest rates on nonqualified withdrawals

International Trade Administration
NOTICES
Scientific articles; duty free entry:
55250 National Aeronautics and Space Administration et al.; correction

Interstate Commerce Commission
RULES
Practice and procedure:
55205 Rail carriers; common carrier status of States, State agencies and instrumentalities, and political subdivisions
Reports:
55209 Motor carriers of property; annual reports; discussion of comments
PROPOSED RULES
Practice and procedure:
55246 Administrative appeals from motor carrier board decisions

NOTICES
55296 Long and short haul applications for relief
Motor and rail carriers:
55296 Carrier-affiliated shippers' agents, status; declaratory order proceeding; extension of time
Motor carriers:
55295 Fuel costs recovery, expedited procedures
55287-55291 Permanent authority applications (3 documents)
55296 Permanent authority applications; correction
Petitions filed:
55286 Trailways, Inc.; transportation of small shipments weighing 500 pounds or less; denial
Rail carriers:
55296 Master tariffs; elimination of grain tables from general rate increase

Labor Department
See also Mine Safety and Health Administration; Wage and Hour Division.
NOTICES
Adjustment assistance:
55299 Complete Auto Transit; correction
55297 RCA Corp. et al.

Land Management Bureau
NOTICES
Applications, etc.:
55283 New Mexico
Environmental statements; availability, etc.:
55283 South Coast and Curry Sustained Yield Units; timber management plan, Oreg.

Libraries and Information Science, National Commission
NOTICES
55317 Meetings; Sunshine Act

Maritime Administration
NOTICES
55250 Merchant marine and fisheries capital construction funds; applicable interest rates on nonqualified withdrawals

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
55296 Galveston Coal Co., Inc.

National Bureau of Standards
RULES
55166 Measurement services; policies, services, procedures, and fees
NOTICES
Voluntary products standards:
55250 Construction and industrial plywood, etc.; withdrawal; status report

National Capital Planning Commission
NOTICES
Senior Executive Service:
55299 Bonus award schedule

National Credit Union Administration
PROPOSED RULES
Federal credit unions:
55214 Month-end financial statements; financial condition, income, and expense; multipurpose form

National Institutes of Health
NOTICES
Committees; establishment, renewals, terminations, etc.:
55282 Cancer Panel, President's, and National Cancer Advisory Board

National Oceanic and Atmospheric Administration
NOTICES
55250 Merchant marine and fisheries capital construction funds; applicable interest rates on nonqualified withdrawals

National Science Foundation
NOTICES
Meetings:
55300 Information Science and Technology Advisory Committee

Nuclear Regulatory Commission
RULES
Nuclear material and production and utilization facilities; domestic licensing:
55402 Emergency planning
Production and utilization facilities, domestic licensing:
55413 Emergency planning; environmental assessment
NOTICES
Meetings:
55301 Reactor Safeguards Advisory Committee (2 documents)
55317, 55318 Meetings; Sunshine Act (2 documents)

Overseas Private Investment Corporation
NOTICES
55318 Meetings; Sunshine Act

Parole Commission
NOTICES
55318 Meetings; Sunshine Act (2 documents)

Personnel Management Office
RULES
Excepted service:
55138 Energy Department (3 documents)
55138, 55139 Environmental Protection Agency (2 documents)
55139 Federal Home Loan Bank Board
55139 Health, Education, and Welfare Department
55139 Health, Education, and Welfare Department; correction
55140 Housing and Urban Development Department
55140 Justice Department (2 documents)
55137 National Credit Union Administration
55137 State Department (2 documents)
55137 Transportation Department
55138 Treasury Department

Securities and Exchange Commission
NOTICES
Hearings, etc.:
55302 Alabama Power Co.

55303 Bondstock Corp.
55304 Chase Fund of Boston et al.
55310 Electro-Heat Resources Corp.
55310 O. N. Market Yield Fund, Inc.
55312 Paine, Webber Municipal Bond Fund First Series et al.
55314 Trinwall Bond Fund, Inc.
55315 Vermont Yankee Nuclear Power Corp.
Self-regulatory organization; proposed rule changes:
55308 Chicago Board Options Exchange, Inc.
55309 Cincinnati Stock Exchange
55309 Depository Trust Co.
55310 Midwest Clearing Corp.

State Department
NOTICES
Meetings:
55316 International Investment, Technology, and Development Advisory Committee

Textile Agreements Implementation Committee
NOTICES
Man-made textiles:
55252 Singapore

Treasury Department
See Fiscal Service; Internal Revenue Service.

Truman, Harry S., Scholarship Foundation
NOTICES
55318 Meetings; Sunshine Act

Wage and Hour Division
RULES
Child labor for agricultural employment:
55175 Waiver applications and restrictions of use of pesticides

Women, President's Advisory Committee
NOTICES
55302 Meetings (2 documents)

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Office of the Secretary—
55249 Citizens' Advisory Committee on Equal Opportunity, 9–7, 9–8 and 9–9–80

ARMS CONTROL AND DISARMAMENT AGENCY
55249 General Advisory Committee, 9–11 and 9–12–80

COMMERCE DEPARTMENT
Office of the Secretary—
55252 Economic Advisory Board, 9–22–80

EDUCATION DEPARTMENT
55253 Career Education National Advisory Council, 9–11 and 9–12–80

FEDERAL COMMUNICATIONS COMMISSION
55272 National Industry Advisory Committee, Broadcast Services Subcommittee, 9–11–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Services Administration—
55281 National Health Service Corps Advisory Council, 9–15, 9–16, and 9–17–80

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
55300 Design Arts Panel (Design Fellowships), 9–8, 9–9 and 9–10–80
55299 Folk Arts Panel, 9–5 and 9–6–80
55300 Museum Panel (Catalogue and Utilization), 9–15 and 9–16–80
55300 Museum Panel (Collection Maintenance), 9–9–80
55300 Museum Panel (Conservation), 9–8–80

NUCLEAR REGULATORY COMMISSION
55301 Reactor Safeguards Advisory Committee, Reactor Fuel Subcommittee, 9–13–80
55301 Reactor Safeguards Advisory Committee, Safety Philosophy and Criteria Subcommittee, 9–3–80

NATIONAL SCIENCE FOUNDATION
55300 Information Science and Technology Advisory Committee, 9–4 and 9–5–80

PRESIDENT'S ADVISORY COMMITTEE FOR WOMEN
55302 Meeting, 9–16–80 (2 documents)

STATE DEPARTMENT
55316 International Investment, Technology, and Development Advisory Committee, 9–9, 9–10 and 9–11–80

HEARINGS

DELAWARE RIVER BASIN COMMISSION
55253 Hearing, 8–27–80

INTERIOR DEPARTMENT
Land Management Bureau—
55283 South Coast and Curry Sustained Yield Units timber management plan draft environmental impact statement, 10–1–80

CONSUMER SUBJECT LISTING

The following items have been identified by the issuing agency as documents of particular consumer interest. This listing highlights the broad subject area of consumer interest followed by the specific subject matter of the document, issuing agency, and document category. For the page reference, please refer to the appropriate agency in today's table of contents.

LUBRICATING OIL
Deceptive advertising and labeling of previously used oil, enforcement policy; Federal Trade Commission; Proposed Rules

CFR PARTS AFFECTED IN THIS ISSUE

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

5 CFR
213 (16 documents)..... 55137–55140

7 CFR
908..... 55140
1421 (6 documents)..... 55141–55159
1427..... 55166
Proposed Rules:
1065..... 55213

10 CFR
50 (2 documents)..... 55402, 55413
70..... 55402
211..... 55374
220..... 55374

12 CFR
Proposed Rules:
Ch. VI..... 55213
Ch. VII..... 55214

15 CFR
200..... 55166

16 CFR
13..... 55171
Proposed Rules:
13..... 55219
406..... 55223

21 CFR
740..... 55170

24 CFR
Proposed Rules:
51..... 55223

29 CFR
575..... 55175
1440..... 55394

31 CFR
346..... 55178

40 CFR
52 (4 documents)..... 55178–55180, 55197
122–124..... 55386
180 (3 documents)..... 55197–55199
260–265..... 55386
413..... 55200
Proposed Rules:
52 (4 documents)..... 55227–55230
58..... 55230
81 (2 documents)..... 55230, 55231
122–124..... 55232
260–265..... 55232

41 CFR
Ch. 44..... 55346

44 CFR
Proposed Rules:
67 (4 documents)..... 55232–55236

45 CFR
228..... 55382

47 CFR
1..... 55200
73 (7 documents)..... 55201–55205
90..... 55200
95..... 55200
Proposed Rules:
73 (7 documents)..... 55237–55244
90..... 55245

49 CFR
1120A..... 55205
1249..... 55209
Proposed Rules:
1100..... 55246

50 CFR
32..... 55210

Rules and Regulations

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; National Credit Union Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Secretary (Typing) to the Board, National Credit Union Administration, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 12, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: James Jackson, National Credit Union Administration, 202–254–9817.

Office of Personnel Management.
Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3357(h) is revised as set out below:

§ 213.3357 National Credit Union Administration.

* * * * *

(h) One Secretary and one Secretary (Typing) to the Board.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25160 Filed 8–18–80; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Staff Assistant to the Ambassador-at-Large and U.S. Special Representative for Nonproliferation Matters, Department of State, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 7, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personnel Management.
Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(10) is revised as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(10) One Secretary (Steno) and one Staff Assistant to the Ambassador-at-Large and U.S. Special Representative for Nonproliferation Matters.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 80–25167 Filed 8–18–80; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Protocol Officer, Department of State, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 25, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Frances Jones, Department of State, 202–632–5350.

Office of Personnel Management.
Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3304(a)(23) is revised as set out below:

§ 213.3304 Department of State.

(a) *Office of the Secretary.* * * *

(23) One Secretary (Steno), one Staff Assistant, and one Protocol Officer to the Chief of Protocol.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 80–25168 Filed 8–18–80; 8:45 am]
BILLING CODE 6325–01–M

5 CFR Part 213

Excepted Service; Department of Transportation

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Assistant Administrator for Public Affairs, Federal Aviation Administration, Department of Transportation, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 10, 1980.

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 202–632–6000.
On position content: Olivia Harris, Department of Transportation, 202–426–4122.

Office of Personnel Management.
Kathryn Anderson Fetzer,
Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3394(h)(8) is revised as set out below:

§ 213.3394 Department of Transportation.

* * * * *

(h) *Federal Aviation Administration.* * *

(8) Two Special Assistants to the Assistant Administrator for Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 80-25182 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of the Treasury

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Confidential Assistant to the Assistant Secretary (Administration), Department of the Treasury, because it is confidential in nature. This position replaces a Special Assistant to the Assistant Secretary (Public Affairs) because there is no longer a need for the job. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Barbara Coughlan, Department of the Treasury, 202–566–2707.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3305(a)(39) and (73) are revised as set out below:

§ 213.3305 Department of the Treasury.

(a) *Office of the Secretary.* * * *

(39) One Staff Assistant, one Special Assistant and one Confidential Assistant to the Assistant Secretary (Administration).

* * * * *

(73) Two Special Assistants to the Assistant Secretary (Public Affairs).

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218.)

[FR Doc. 80-25169 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Energy from Private Secretary to the Chairman, Federal Power Commission to Private Secretary to the Chairman, Federal Energy Regulatory Commission to reflect an organizational transfer. This position formerly existed at the Federal Energy Administration and was subsequently transferred to the Department of Energy on September 30, 1977.

EFFECTIVE DATE: February 8, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan DeLong, Department of Energy, 202–252–8468.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3331(c)(1) is revised as set out below:

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.*

(1) One Confidential Secretary, three Private Secretaries, one Secretary (Steno) and one Confidential Assistant to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-25176 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment corrects FR document 79–32624 published October 23, 1979, (44 FR 60974) which erroneously listed a position at the Department of Energy of one Staff Assistant to the Director, Office of Intergovernmental Affairs.

EFFECTIVE DATE: October 23, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3331(m)(5) is revised as set out below:

§ 213.3331 Department of Energy.

* * * * *

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* * * *

(5) One Staff Assistant, City and County Relations; and one Staff Assistant; to the Director, Office of Intergovernmental Affairs.

(5 U.S.C. 3301, 3302; EO 10577 3 CFR, 1954–1958 Comp., p. 218)

[FR Doc. 80-25177 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Energy from Staff Assistant, Congressional Affairs to Staff Assistant, Legislative Affairs to reflect an organizational redesignation.

EFFECTIVE DATE: January 21, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Joan DeLong, Department of Energy, 202–252–8468.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3331(m)(6) is revised and (m)(7) is added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* * * *

(6) Three Staff Assistants, Congressional Affairs; one Congressional Affairs Specialist and one Legislative Affairs Specialist.

(7) One Staff Assistant, Legislative Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80-25178 Filed 8-18-80; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Assistant to the Director, Office of Public Awareness, Environmental Protection Agency, because it is confidential in nature. This position takes the place of a Special Assistant to the Deputy Administrator because there is no longer a need for the job. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Anne Maes, Environmental Protection Agency, 202–755–0270.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3318(a)(6) is revised and (a)(9) is added as set out below:

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* * * *

(6) One Special Assistant to the Deputy Administrator.

* * * * *

(9) One Special Assistant to the Director, Office of Public Awareness.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25174 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Congressional Liaison Specialist, to the Director, Congressional Affairs Division, Environmental Protection Agency, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management. This position takes the place of a Legislative Specialist, Office of Legislation because there is no longer a need for the job.

EFFECTIVE DATE: March 24, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Anne Maes, Environmental Protection Agency; 202–755–0270.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3318(b)(7) is revised and set out below:

§ 213.3318 Environmental Protection Agency.

* * * * *

(b) *Office of Legislation.* * * *

(7) One Congressional Liaison Specialist to the Director, Congressional Affairs Division.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25175 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Federal Home Loan Bank Board

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C Director for Minority Affairs, Federal Home Loan Bank Board, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 26, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Pat Schambach, Federal Home Loan Bank Board, 202–377–6054.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3354(s) is added as set out below:

§ 213.3354 Federal Home Loan Bank Board.

* * * * *

(s) Director for Minority Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25179 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Health, Education and Welfare

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Special Advisor for Program and Resource Development, Office of the Assistant Secretary for Human Development, Department of Health, Education and Welfare, because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: March 10, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Rita Reed, Department of Health, Education and Welfare, 202–426–7621.

Office of Personnel Management.

Kathryn Anderson Fetzer

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3316(n)(4) is added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(n) *Office of the Assistant Secretary for Human Development.* * * *

(4) One Special Advisor for Program and Resource Development.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25172 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Health, Education, and Welfare; Correction

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document corrects an excepted service appointing authority of one Confidential Assistant to the Deputy Assistant Secretary for Education (Policy Communications), Department of Health, Education, and Welfare, published by the Office of Personnel Management on November 27, 1979. This is an editorial change only.

EFFECTIVE DATE: April 11, 1979.

FOR FURTHER INFORMATION CONTACT: William Bohling, Office of Personnel Management, 202–632–6000.

SUPPLEMENTARY INFORMATION: FR Doc. 79–36273, published November 27, 1979, at 44 FR 67621, incorrectly revised 5 CFR 213.3316(r)(3). This document corrects paragraph (r)(3) and revises paragraph (r)(11).

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3316(r)(3) is corrected and (r)(11) is revised as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

* * * * *

(r) *Office of the Assistant Secretary for Education.* * * *

(3) One Confidential Assistant to the Deputy Assistant Secretary for Education (Policy Communications).

* * * * *

(11) Confidential Assistant and one Assistant Director for Programs to the Director, Institute of Museum Services.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25173 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Housing and Urban Development

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document corrects FR Doc 79–34732 dated November 9, 1979, (44 FR 65027) which erroneously revoked one Private Secretary to the Deputy Assistant Secretary for Legislation, Office of Legislation and Intergovernmental Relations, Department of Housing and Urban Development.

EFFECTIVE DATE: April 27, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3384(m)(2) is restored and (n)(2) is revoked as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(m) *Office of Legislation and Intergovernmental Relations.* * * *

(2) One Private Secretary to the Deputy Assistant Secretary for Legislation.

* * * * *

(n) *Office of the Assistant Secretary for Administration.* * * *

(2) [Revoked]

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25181 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one Executive Assistant and one Special Assistant to the Attorney General, Department of Justice, because they are confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: January 11, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Roberta Gross, Department of Justice, 202–633–1846.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3310(a)(1) is revised as set out below:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* * * *

(1) Five Special Assistants and one Executive Assistant to the Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25170 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

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5 CFR Part 213

Excepted Service; Department of Justice

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the title of a position at the Department of Justice from Confidential Assistant to the Associate Attorney General to Special Assistant to the Associate Attorney General to more appropriately reflect the duties of the position.

EFFECTIVE DATE: January 22, 1980.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–6000.

On position content: Roberta Gross, Department of Justice, 202–633–1846.

Office of Personnel Management.

Kathryn Anderson Fetzer,

Assistant Issuance System Manager.

Accordingly, 5 CFR 213.3310(a)(12) is revised as set out below:

§ 213.3310 Department of Justice.

(a) *Office of the Attorney General.* * * *

(12) Two Special Assistants and a Deputy Associate Attorney General to the Associate Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 80–25171 Filed 8–18–80; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 658, Amdt. 1]

[Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This action increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 8–14, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for the period specified due to the marketing situation confronting the orange industry.

EFFECTIVE DATES: The amendment is effective for the period August 8–14, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This amendment is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated parts of California. The agreement and order are effective under the Agricultural Marketing Agreement

Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again on August 13, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges has improved.

It is further found that there is insufficient time between the date when information became available upon which this amendment is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and this amendment relieves restrictions on the handling of Valencia oranges. It is necessary to effectuate the declared purposes of the act to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

Paragraph (a) of § 908.958 Valencia Orange Regulation 658 (45 FR 52356) is amended to read as follows:

§ 908.958 Valencia orange regulation 658.

(a) * * *

(1) District 1: 376,000 cartons;

(2) District 2: 424,000 cartons;

(3) District 3: Open movement.

* * * * *

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

Dated: August 14, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-25162 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

[CCC Grain Price Support Regulations, 1979 Crop Barley Supplement, Amendment 1]

7 CFR Part 1421

1979 Crop Barley Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.76 that appeared in the **Federal Register** at 44 FR 31611. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979 crop barley national average loan and purchase rates from $1.63 to $1.71 per bushel, previously announced in the **Federal Register.** Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447–7923. With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980, that the 1979 loan and purchase rate for barley was being increased to $1.71 per bushel in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $1.71 per bushel for the 1979 crop of barley, published in the **Federal Register** on January 30, 1980, (45 FR 6812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.76(a) is revised to read as follows:

§ 1421.76 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for barley are established for barley grading No. 2 or better as follows:

1979—Crop Barley Loan and Purchase Rates

County	Rate per bushel
Alabama	
All counties	$1.69
Alaska [1]	
Delta	1.54
Fairbanks	1.53
Glenallen	1.63
Homer	1.59
Kenai-Sold	1.66
Palmer	1.72
Talkeetna	1.72
Arizona	
All counties	1.89
Arkansas	
All counties	1.69
California	
Alameda	2.07
Alpine	1.90
Amador	2.03
Butte	1.98
Calaveras	2.03
Colusa	2.02
Contra Costa	2.04
El Dorado	2.02
Fresno	2.01
Glenn	1.99

1979—Crop Barley Loan and Purchase Rates—Continued

County	Rate per bushel
Humboldt	1.87
Imperial	2.01
Inyo	1.89
Kern	2.02
Kings	2.00
Lake	1.97
Lassen	1.87
Los Angeles	2.07
Madera	2.03
Marin	2.04
Mariposa	2.01
Mendocino	1.91
Merced	2.03
Modoc	1.85
Monterey	1.99
Napa	2.02
Orange	2.07
Placer	2.00
Plumas	1.90
Riverside	2.02
Sacramento	2.07
San Benito	1.99
San Bernardino	2.03
San Diego	2.07
San Francisco	2.07
San Joaquin	2.07
San Luis Obispo	1.99
San Mateo	2.04
Santa Barbara	1.98
Santa Clara	2.03
Santa Cruz	2.00
Shasta	1.87
Sierra	1.89
Siskiyou	1.85
Solano	2.04
Sonoma	2.02
Stanislaus	2.05
Sutter	2.01
Tehama	1.98
Tulare	1.99
Tuolumne	2.01
Ventura	2.02
Yolo	2.04
Yuba	2.01
Weighted State average	2.00
Colorado	
All counties	1.77
Connecticut	
All counties	1.69
Delaware	
All counties	1.69
Florida	
All counties	1.70
Georgia	
All counties	1.70
Idaho	
Ada	1.74
Adams	1.74
Bannock	1.74
Bear Lake	1.71
Benewah	1.83
Bingham	1.73
Blaine	1.74
Boise	1.74
Bonner	1.79
Bonneville	1.71
Boundary	1.78
Butte	1.73
Camas	1.74
Canyon	1.74
Caribou	1.71
Cassia	1.73
Clark	1.70
Clearwater	1.82
Custer	1.74
Elmore	1.74
Franklin	1.75
Fremont	1.71
Gem	1.74
Gooding	1.74
Idaho	1.78
Jefferson	1.71
Jerome	1.74
Kootenai	1.83
Latah	1.83
Lemhi	1.70
Lewis	1.82
Lincoln	1.74
Madison	1.71
Minidoka	1.75
Nez Perce	1.83
Oneida	1.74
Owyhee	1.74
Payette	1.74
Power	1.74
Shoshone	1.71
Teton	1.71
Twin Falls	1.75
Valley	1.74
Washington	1.74
Weighted State average	1.74
Illinois	
Alexander	1.75
Cook	1.70
Madison	1.74
St. Clair	1.74
All other counties	1.65
Weighted State average	1.65
Indiana	
All counties	1.65
Iowa	
Pottawattamie	1.71
All other counties	1.67
Weighted State average	1.67
Kansas	
Leavenworth	1.72
Wyandotte	1.72
All other counties	1.68
Weighted State average	1.68
Kentucky	
All counties	1.66
Louisiana	
East Baton Rouge	1.87
Jefferson	1.87
Orleans	1.87
St. Charles	1.87
West Baton Rouge	1.87
All other parishes	1.70
Weighted State average	1.70
Maine	
All counties	1.69
Maryland	
Baltimore	1.87
All other counties	1.69
Weighted State average	1.69
Massachusetts	
All counties	1.69
Michigan	
All counties	1.61
Minnesota	
Aitken	1.79
Anoka	1.82
Becker	1.69
Beltrami	1.71
Benton	1.79
Big Stone	1.72
Blue Earth	1.82
Brown	1.80
Carlton	1.83
Carver	1.83
Cass	1.74
Chippewa	1.78
Chisago	1.82
Clay	1.67
Clearwater	1.67
Cottonwood	1.78
Crow Wing	1.75
Dakota	1.83
Dodge	1.82
Douglas	1.73
Faribault	1.81
Fillmore	1.79
Freeborn	1.82
Goodhue	1.82
Grant	1.71
Hennepin	1.83
Houston	1.78
Hubbard	1.71
Isanti	1.81
Itasca	1.78
Jackson	1.77
Kanabec	1.80
Kandiyohi	1.79
Kittson	1.62
Koochiching	1.75
Lac Qui Parle	1.75
Lake of the Woods	1.70
Le Sueur	1.83
Lincoln	1.73
Lyon	1.77
McLeod	1.82
Mahnomen	1.67
Marshall	1.64
Martin	1.80
Meeker	1.80
Mille Lacs	1.80
Morrison	1.77
Mower	1.81
Murray	1.76
Nicollet	1.82
Nobles	1.73
Norman	1.65
Olmsted	1.82
Otter Tail	1.70
Pennington	1.65
Pine	1.83
Pipestone	1.72
Polk	1.65
Pope	1.76
Ramsey	1.83
Red Lake	1.65
Redwood	1.79
Renville	1.80
Rice	1.83
Rock	1.70
Roseau	1.64
St. Louis	1.83
Scott	1.83
Sherburne	1.82
Sibley	1.82
Stearns	1.78
Steele	1.83
Stevens	1.74
Swift	1.77
Todd	1.74
Traverse	1.70
Wabasha	1.82
Wadena	1.73
Waseca	1.83
Washington	1.83
Watonwan	1.81
Wilkin	1.68
Winona	1.80
Wright	1.83
Yellow Medicine	1.75
Weighted State average	1.67
Mississippi	
All counties	1.69
Missouri	
Buchanan	1.71
Clay	1.71
Jackson	1.71
St. Louis	1.73
All other counties	1.69
Weighted State average	1.69
Montana	
Beaverhead	1.65
Big Horn	1.60
Blaine	1.56
Broadwater	1.68
Carbon	1.61
Carter	1.50
Cascade	1.64
Chouteau	1.60
Custer	1.52
Daniels	1.49
Dawson	1.51
Deer Lodge	1.71
Fallon	1.50
Fergus	1.60
Flathead	1.76

1979—Crop Barley Loan and Purchase Rates—Continued

County	Rate per bushel
Gallatin	1.71
Garfield	1.55
Glacier	1.63
Golden Valley	1.61
Granite	1.69
Hill	1.59
Jefferson	1.71
Judith Basin	1.61
Lake	1.69
Lewis and Clark	1.62
Liberty	1.61
Lincoln	1.76
McCone	1.52
Madison	1.71
Meagher	1.65
Mineral	1.73
Missoula	1.73
Musselshell	1.60
Park	1.69
Petroleum	1.58
Phillips	1.53
Pondera	1.62
Powder River	1.52
Powell	1.71
Prairie	1.52
Ravalli	1.69
Richland	1.49
Roosevelt	1.49
Rosebud	1.55
Sanders	1.73
Sheridan	1.47
Siver Bow	1.71
Stillwater	1.61
Sweet Grass	1.64
Teton	1.62
Toole	1.62
Treasure	1.55
Valley	1.52
Wheatland	1.62
Wibaux	1.50
Yellowstone	1.60
Weighted State average	1.61
Nebraska	
Douglas	1.72
All other counties	1.64
Weighted State average	1.64
Nevada	
All counties	1.89
New Hampshire	
All counties	1.69
New Jersey	
All counties	1.69
New Mexico	
All counties	1.79
New York	
Albany	1.87
New York City	1.87
All other counties	1.69
Weighted State average	1.69
North Carolina	
All counties	1.70
North Dakota	
Adams	1.49
Barnes	1.62
Benson	1.54
Billings	1.47
Bottineau	1.49
Bowman	1.47
Burke	1.47
Burleigh	1.53
cass	1.65
Cavalier	1.56
Dickey	1.60
Divide	1.47
Dunn	1.47
Eddy	1.57
Emmons	1.52
Foster	1.58
Golden Valley	1.47
Grand Forks	1.62
Grant	1.48
Griggs	1.59
Hettinger	1.47
Kidder	1.56
La Moure	1.59
Logan	1.56
McHenry	1.52
McIntosh	1.57
McKenzie	1.49
McClean	1.51
Mercer	1.50
Morton	1.50
Mountrail	1.47
Nelson	1.59
Oliver	1.51
Pembina	1.60
Pierce	1.53
Ramsey	1.56
Ransom	1.62
Renville	1.48
Richland	1.65
Rolette	1.52
Sargent	1.64
Sheridan	1.53
Sioux	1.50
Slope	1.47
Stark	1.47
Steele	1.61
Stutsman	1.60
Towner	1.54
Traill	1.62
Walsh	1.60
Ward	1.49
Wells	1.56
Williams	1.47
Weighted State average	1.58
Ohio	
All counties	1.63
Oklahoma	
All counties	1.70
Oregon	
Baker	1.81
Benton	1.86
Clackamas	1.90
Clatsop	1.96
Columbia	1.96
Coos	1.77
Crook	1.85
Curry	1.75
Deschutes	1.85
Douglas	1.79
Gilliam	1.90
Grant	1.85
Harney	1.72
Hood river	1.92
Jackson	1.78
Jefferson	1.88
Josephine	1.78
Klamath	1.78
Lake	1.77
Lane	1.85
Lincoln	1.85
Linn	1.87
Malheur	1.75
Marion	1.88
Morrow	1.89
Multnomah	1.96
Polk	1.88
Sherman	1.91
Tillamook	1.91
Umatilla	1.86
Union	1.84
Wallowa	1.81
Wasco	1.92
Washington	1.92
Wheeler	1.87
Yamhill	1.90
Weighted State average	1.83
Pennsylvania	
Philadelphia	1.87
All other counties	1.69
Weighted State average	1.69
Rhode Island	
All counties	1.69
South Carolina	
Charleston	1.85
All other counties	1.70
Weighted State average	1.70
South Dakota	
Aurora	1.59
Beadle	1.63
Bennett	1.53
Bon Homme	1.62
Brookings	1.69
Brown	1.62
Brule	1.57
Buffalo	1.59
Butte	1.46
Campbell	1.56
Charles Mix	1.60
Clark	1.64
Clay	1.64
Codington	1.67
Corson	1.51
Custer	1.51
Davison	1.59
Day	1.65
Deuel	1.71
Dewey	1.53
Douglas	1.60
Edmunds	1.59
Fall River	1.51
Faulk	1.60
Grant	1.71
Gregory	1.59
Haakon	1.53
Hamlin	1.67
Hand	1.61
Hanson	1.60
Harding	1.47
Hughes	1.57
Hutchinson	1.61
Hyde	1.59
Jackson	1.53
Jerauld	1.59
Jones	1.56
Kingsbury	1.66
Lake	1.65
Lawrence	1.46
Lincoln	1.64
Lyman	1.57
McCook	1.62
McPherson	1.59
Marshall	1.64
Meade	1.49
Mellette	1.55
Miner	1.61
Minnehaha	1.65
Moody	1.67
Pennington	1.51
Perkins	1.49
Roberts	1.69
Potter	1.58
Sanborn	1.59
Shannon	1.51
Spink	1.62
Stanley	1.56
Sully	1.58
Todd	1.55
Tripp	1.57
Turner	1.64
Union	1.65
Walworth	1.56
Yankton	1.64
Ziebach	1.51
Weighted State average	1.62
Tennessee	
Shelby	1.75
All other counties	1.69
Weighted State average	1.69
Texas	
Chambers	1.89
Galveston	1.89
Harris	1.89
Jefferson	1.89
Nueces	1.89
San Patricio	1.89
All other counties	1.73
Weighted State average	1.73
Utah	
All counties	1.79
Vermont	
All counties	1.69

1979—Crop Barley Loan and Purchase Rates—Continued

County	Rate per bushel
Virginia	
Chesapeake (Norfolk)	1.79
All other counties	1.69
Weighted State average	1.69
Washington	
Adams	1.86
Asotin	1.86
Benton	1.88
Chelan	1.90
Clallam	1.76
Clark	1.96
Columbia	1.87
Cowlitz	1.96
Douglas	1.85
Ferry	1.81
Franklin	1.87
Garfield	1.87
Grant	1.86
Grays Harbor	1.85
Island	1.89
Jefferson	1.81
King	1.96
Kitsap	1.89
Kittitas	1.88
Klickitat	1.89
Lewis	1.90
Lincoln	1.85
Mason	1.83
Okanogan	1.84
Pacific	1.85
Pend Oreille	1.79
Pierce	1.96
San Juan	1.84
Skagit	1.84
Skamania	1.91
Snohomish	1.89
Spokane	1.83
Stevens	1.80
Thurston	1.90
Wahkiakum	1.93
Walla Walla	1.87
Whatcom	1.82
Whitman	1.85
Yakima	1.87
Weighted State average	1.85
West Virginia	
All counties	1.69
Wisconsin	
Douglas	1.76
All other counties	1.66
Weighted State average	1.66
Wyoming	
All counties	1.73

[1]In Alaska, loan rates are for marketing areas.

Since the 1979 crop of barley has been harvested in the barley producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25144 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Corn Supplement, Amendment 1]

1979 Crop Corn Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.115 that appeared in the **Federal Register** at 44 FR 48647. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979 crop corn national average loan and purchase rates from $2.00 to $2.10 per bushel, previously announced in the **Federal Register.** Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447-7923.

With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS) Room 3749, South Building, P.O. Box 2415. Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980, that the 1979 loan and purchase rate for corn was being increased to $2.10 per bushel in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $2.10 per bushel for the 1979 crop of corn, published in the **Federal Register** on January 30, 1980, (45 FR 6812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.115(a) is revised to read as follows:

§ 1421.115 Loan and Purchase Rates, Premiums and Discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for corn are established for corn grading No. 2 and containing from 15.1 through 15.5 percent moisture as follows:

1979—Crop Corn Loan and Purchase

County	Rate per bushel
Alabama	
All counties	$2.25
Arizona	
All counties	2.31
Arkansas	
All counties	2.22
California	
All counties	2.31
Colorado	
Baca	2.14
Cheyenne	2.13
Kiowa	2.13
Kit Carson	2.13
Lincoln	2.16
Logan	2.15
Phillips	2.13
Prowers	2.13
Sedgewick	2.13
Washington	2.15
Yuma	2.12
All other counties	2.17
Weighted State average	2.14
Connecticut	
All counties	2.34
Delaware	
All counties	2.28
Florida	
All counties	2.26

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Georgia	
All counties	2.26
Idaho	
All counties	2.28
Illinois	
Adams	2.15
Alexander	2.19
Bond	2.17
Boone	2.15
Brown	2.16
Bureau	2.15
Calhoun	2.17
Carroll	2.13
Cass	2.16
Champaign	2.14
Christian	2.16
Clark	2.14
Clay	2.15
Clinton	2.18
Coles	2.14
Cook	2.19
Crawford	2.14
Cumberland	2.14
De Kalb	2.15
De Witt	2.14
Douglas	2.14
Du Page	2.18
Edgar	2.14
Edwards	2.16
Effingham	2.15
Fayette	2.16
Ford	2.15
Franklin	2.17
Fulton	2.16
Gallatin	2.17
Greene	2.17
Grundy	2.16
Hamilton	2.16
Hancock	2.15
Hardin	2.18
Henderson	2.15
Henry	2.15
Iroquois	2.15
Jackson	2.18
Jasper	2.14
Jefferson	2.18
Jersey	2.17
Jo Daviess	2.12
Johnson	2.18
Kane	2.17
Kankakee	2.16
Kendall	2.16
Knox	2.16
Lake	2.18
La Salle	2.15
Lawrence	2.15
Lee	2.15
Livingston	2.15
Logan	2.15
McDonough	2.16
McHenry	2.17
McLean	2.14
Macon	2.15
Macoupin	2.17
Madison	2.19
Marion	2.16
Marshall	2.15
Mason	2.16
Massac	2.19
Menard	2.15
Mercer	2.14
Monroe	2.20
Montgomery	2.16
Morgan	2.16
Moultrie	2.14
Ogle	2.14
Peoria	2.16
Perry	2.19
Piatt	2.14
Pike	2.16
Pope	2.16
Pulaski	2.19
Putnam	2.15
Randolph	2.19
Richland	2.15
Rock Island	2.14
St. Clair	2.20
Saline	2.17
Sangamon	2.15
Schuyler	2.16
Scott	2.16
Shelby	2.15
Stark	2.16
Stephenson	2.12
Tazwell	2.15
Union	2.18
Vermilion	2.14
Wabash	2.16
Warren	2.16
Washington	2.20
Wayne	2.16
White	2.16
Whiteside	2.14
Will	2.18
Williamson	2.17
Winnebago	2.13
Woodford	2.15
Weighted State average	2.15
Indiana	
Adams	2.13
Allen	2.13
Bartholomew	2.14
Benton	2.15
Blackford	2.12
Boone	2.10
Brown	2.14
Carroll	2.13
Cass	2.15
Clark	2.17
Clay	2.12
Clinton	2.11
Crawford	2.17
Daviess	2.16
Dearborn	2.17
Decatur	2.14
De Kalb	2.13
Delaware	2.11
Dubois	2.16
Elkhart	2.15
Fayette	2.13
Floyd	2.17
Fountain	2.12
Franklin	2.16
Fulton	2.15
Gibson	2.17
Grant	2.12
Greene	2.14
Hamilton	2.10
Hancock	2.11
Harrison	2.17
Hendricks	2.11
Henry	2.11
Howard	2.13
Huntington	2.12
Jackson	2.16
Jasper	2.16
Jay	2.13
Jefferson	2.17
Jennings	2.16
Johnson	2.12
Knox	2.16
Kosciusko	2.15
Lagrange	2.13
Lake	2.18
La Porte	2.18
Lawrence	2.16
Madison	2.10
Marion	2.11
Marshall	2.16
Martin	2.16
Miami	2.13
Monroe	2.14
Montgomery	2.12
Morgan	2.12
Newton	2.16
Noble	2.13
Ohio	2.17
Orange	2.16
Owen	2.12
Parke	2.12
Perry	2.17
Pike	2.16
Porter	2.18
Posey	2.17
Pulaski	2.16
Putnam	2.11
Randolph	2.12
Ripley	2.16
Rush	2.12
St. Joseph	2.16
Scott	2.17
Shelby	2.12
Spencer	2.17
Starke	2.16
Steuben	2.13
Sullivan	2.14
Switzerland	2.17
Tippecanoe	2.13
Tipton	2.11
Union	2.14
Vanderburgh	2.17
Vermillion	2.13
Vigo	2.13
Wabash	2.13
Warren	2.13
Warrick	2.17
Washington	2.17
Wayne	2.12
Wells	2.12
White	2.15
Whitley	2.13
Weighted State average	2.14
Iowa	
Adair	2.08
Adams	2.11
Allamakee	2.06
Appanoose	2.11
Audubon	2.08
Benton	2.09
Black Hawk	2.09
Boone	2.07
Bremer	2.08
Buchanan	2.09
Buena Vista	2.04
Butler	2.07
Calhoun	2.05
Carroll	2.08
Cass	2.09
Cedar	2.12
Cerro Gordo	2.06
Cherokee	2.04
Chickasaw	2.07
Clarke	2.10
Clay	2.02
Clayton	2.08
Clinton	2.12
Crawford	2.09
Dallas	2.07
Davis	2.12
Decatur	2.12
Delaware	2.09
Des Moines	2.12
Dickinson	2.00
Dubuque	2.10
Emmet	2.00
Fayette	2.08
Floyd	2.07
Franklin	2.06
Fremont	2.12
Greene	2.06
Grundy	2.08
Guthrie	2.07
Hamilton	2.06
Hancock	2.05
Hardin	2.08
Harrison	2.10
Henry	2.12
Howard	2.05
Humboldt	2.03
Ida	2.06
Iowa	2.10
Jackson	2.11
Jasper	2.09
Jefferson	2.11
Johnson	2.11
Jones	2.10
Keokuk	2.11
Kossuth	2.02
Lee	2.12
Linn	2.09
Louisa	2.12
Lucas	2.10
Lyon	2.01
Madison	2.08
Mahaska	2.10
Marion	2.09

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Marshall	2.09
Mills	2.11
Mitchell	2.05
Monona	2.09
Monroe	2.10
Montgomery	2.11
Muscatine	2.12
O'Brien	2.03
Osceola	2.01
Page	2.13
Palo Alto	2.01
Plymouth	2.05
Pocahontas	2.04
Polk	2.08
Pottawattamie	2.11
Poweshiek	2.09
Ringgold	2.13
Sac	2.06
Scott	2.12
Shelby	2.10
Sioux	2.03
Story	2.09
Tama	2.09
Taylor	2.13
Union	2.11
Van Buren	2.12
Wapello	2.11
Warren	2.09
Washington	2.11
Wayne	2.11
Webster	2.05
Winnebago	2.04
Winneshiek	2.06
Woodbury	2.07
Worth	2.05
Wright	2.05
Weighted State average	2.08
Kansas	
Allen	2.16
Anderson	2.17
Atchison	2.18
Barber	2.10
Barton	2.08
Bourbon	2.18
Brown	2.16
Butler	2.12
Chase	2.12
Chautauqua	2.12
Cherokee	2.18
Cheyenne	2.06
Clark	2.10
Clay	2.10
Cloud	2.10
Coffey	2.15
Comanche	2.10
Cowley	2.11
Crawford	2.18
Decatur	2.08
Dickinson	2.10
Doniphan	2.16
Douglas	2.18
Edwards	2.09
Elk	2.12
Ellis	2.08
Ellsworth	2.09
Finney	2.09
Ford	2.10
Franklin	2.17
Geary	2.12
Gove	2.07
Graham	2.07
Grant	2.10
Gray	2.10
Greely	2.08
Greenwood	2.13
Hamilton	2.09
Harper	2.10
Harvey	2.10
Haskell	2.10
Hodgeman	2.09
Jackson	2.16
Jefferson	2.18
Jewell	2.09
Johnson	2.19
Kearny	2.09
Kingman	2.10
Kiowa	2.09
Labette	2.14
Lane	2.08
Leavenworth	2.19
Lincoln	2.09
Linn	2.18
Logan	2.07
Lyon	2.14
McPherson	2.10
Marion	2.10
Marshall	2.14
Meade	2.11
Miami	2.18
Mitchell	2.09
Montgomery	2.13
Morris	2.12
Morton	2.11
Nemaha	2.15
Neosho	2.16
Ness	2.08
Norton	2.09
Osage	2.15
Osborne	2.08
Ottawa	2.10
Pawnee	2.09
Phillips	2.09
Pottawatomie	2.15
Pratt	2.09
Rawlins	2.07
Reno	2.09
Republic	2.11
Rice	2.09
Riley	2.14
Rooks	2.08
Rush	2.08
Russell	2.08
Saline	2.10
Scott	2.08
Sedgwick	2.11
Seward	2.11
Shawnee	2.16
Sheridan	2.07
Sherman	2.07
Smith	2.09
Stafford	2.09
Stanton	2.10
Stevens	2.11
Sumner	2.11
Thomas	2.07
Trego	2.07
Wabaunsee	2.14
Wallace	2.07
Washington	2.13
Wichita	2.08
Wilson	2.14
Woodson	2.15
Wyandotte	2.19
Weighted State average	2.10
Kentucky	
Ballard	2.19
Boone	2.18
Bracken	2.20
Breckinridge	2.19
Bullitt	2.20
Campbell	2.18
Carroll	2.19
Crittenden	2.19
Daviess	2.19
Gallatin	2.19
Hancock	2.19
Henderson	2.19
Jefferson	2.19
Kenton	2.18
Lewis	2.20
Livingston	2.19
McCracken	2.19
Mason	2.20
Meade	2.19
Oldham	2.19
Trimble	2.19
Union	2.19
All Other Counties	2.21
Weighted State average	2.20
Louisiana	
All counties	2.24
Maine	
All counties	2.34
Maryland	
All counties	2.28
Massachusetts	
All counties	2.34
Michigan	
Alcona	2.11
Alger	2.09
Allegan	2.11
Alpena	2.11
Antrim	2.11
Arenac	2.10
Baraga	2.09
Barry	2.10
Bay	2.09
Benzie	2.11
Berrien	2.16
Branch	2.13
Calhoun	2.11
Cass	2.14
Charlevoix	2.11
Cheboygan	2.11
Chippewa	2.09
Clare	2.09
Clinton	2.10
Crawford	2.11
Delta	2.09
Dickinson	2.09
Eaton	2.11
Emmet	2.11
Genesee	2.11
Gladwin	2.09
Gogebic	2.09
Grand Traverse	2.11
Gratiot	2.08
Hillsdale	2.14
Houghton	2.09
Huron	2.09
Ingham	2.11
Ionia	2.10
Iosco	2.10
Iron	2.09
Isabella	2.08
Jackson	2.12
Kalamazoo	2.12
Kalkaska	2.11
Kent	2.09
Keweenaw	2.09
Lake	2.10
Lapeer	2.11
Leelanau	2.11
Lenawee	2.15
Livingston	2.12
Luce	2.09
Mackinac	2.09
Macomb	2.12
Manistee	2.10
Marquette	2.09
Mason	2.10
Mecosta	2.08
Menominee	2.09
Midland	2.08
Misaukee	2.10
Monroe	2.16
Montcalm	2.08
Montmorency	2.11
Muskegon	2.10
Newaygo	2.09
Oakland	2.12
Oceana	2.10
Ogemaw	2.10
Ontonagon	2.09
Osceola	2.09
Oscoda	2.11
Otsego	2.11
Ottawa	2.10
Presque Isle	2.11
Roscommon	2.10
Saginaw	2.08
St. Clair	2.11
St. Joseph	2.13
Sanilac	2.09
Schoolcraft	2.09
Shiawassee	2.10
Tuscola	2.08
Van Buren	2.12
Washtenaw	2.13
Wayne	2.14
Wexford	2.10
Weighted State average	2.11
Minnesota	
Aitkin	2.02

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Anoka	2.02
Becker	2.00
Beltrami	2.00
Benton	2.02
Big Stone	1.97
Blue Earth	2.01
Brown	2.00
Carlton	2.02
Carver	2.02
Cass	2.00
Chippewa	2.00
Chisago	2.02
Clay	2.00
Clearwater	2.00
Cook	2.02
Cottonwood	1.98
Crow Wing	2.01
Dakota	2.02
Dodge	2.02
Douglas	2.01
Faribault	2.00
Fillmore	2.04
Freeborn	2.01
Goodhue	2.02
Grant	2.00
Hennepin	2.02
Houston	2.04
Hubbard	2.00
Isanti	2.02
Itasca	2.02
Jackson	1.99
Kanabec	2.02
Kandiyohi	2.01
Kittson	2.00
Koochiching	2.02
Lac Qui Parle	1.97
Lake	2.02
Lake of the Woods	2.00
Le Sueur	2.02
Lincoln	1.96
Lyon	1.97
McLeod	2.02
Mahnomen	2.00
Marshall	2.00
Martin	1.99
Meeker	2.02
Mille Lacs	2.02
Morrison	2.01
Mower	2.03
Murray	1.98
Nicollet	2.01
Nobles	1.99
Norman	2.00
Olmsted	2.03
Otter Tail	2.00
Pennington	2.00
Pine	2.02
Pipestone	1.98
Polk	2.00
Pope	2.00
Ramsey	2.02
Red Lake	2.00
Redwood	1.99
Renville	2.01
Rice	2.02
Rock	1.99
Roseau	2.00
St. Louis	2.02
Scott	2.02
Sherburne	2.02
Sibley	2.02
Stearns	2.01
Steele	2.01
Stevens	1.99
Swift	1.99
Todd	2.01
Traverse	1.97
Wabasha	2.02
Wadena	2.01
Waseca	2.01
Washington	2.02
Watonwan	1.99
Wilkin	1.99
Winona	2.03
Wright	2.02
Yellow Medicine	1.98
State weighted average	2.01
Mississippi	
All counties	2.24

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Missouri	
Adair	2.14
Andrew	2.18
Atchison	2.15
Audrian	2.16
Barry	2.21
Barton	2.17
Bates	2.18
Benton	2.16
Bollinger	2.18
Boone	2.15
Buchanan	2.19
Butler	2.19
Caldwell	2.19
Callaway	2.16
Camden	2.17
Cape Girardeau	2.18
Carroll	2.18
Carter	2.19
Cass	2.19
Cedar	2.18
Chariton	2.17
Christian	2.21
Clark	2.13
Clay	2.19
Clinton	2.19
Cole	2.16
Cooper	2.14
Crawford	2.18
Dade	2.18
Dallas	2.19
Daviess	2.17
De Kalb	2.17
Dent	2.19
Douglas	2.23
Dunklin	2.19
Franklin	2.18
Gasconade	2.16
Gentry	2.15
Greene	2.19
Grundy	2.16
Harrison	2.15
Henry	2.17
Hickory	2.17
Holt	2.16
Howard	2.15
Howell	2.23
Iron	2.18
Jackson	2.19
Jasper	2.18
Jefferson	2.19
Johnson	2.19
Knox	2.14
Laclede	2.19
Lafayette	2.19
Lawrence	2.19
Lewis	2.14
Lincoln	2.17
Linn	2.16
Livingston	2.18
McDonald	2.20
Macon	2.15
Madison	2.18
Maries	2.17
Marion	2.14
Mercer	2.14
Miller	2.17
Mississippi	2.19
Montineau	2.16
Moniroe	2.15
Montgomery	2.16
Morgan	2.16
New Madrid	2.19
Newton	2.19
Nodaway	2.16
Oregon	2.21
Osage	2.16
Ozark	2.23
Pemiscot	2.19
Perry	2.18
Pettis	2.15
Phelps	2.19
Pike	2.16
Platte	2.19
Polk	2.19
Pulaski	2.19
Putnam	2.13
Ralls	2.15
Randolph	2.15

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Ray	2.19
Reynolds	2.19
Ripley	2.19
St. Charles	2.17
St. Clair	2.17
St. Francois	2.18
St. Genevieve	2.18
St. Louis	2.19
Saline	2.17
Schuyler	2.14
Scotland	2.13
Scott	2.19
Shannon	2.21
Shelby	2.14
Stoddard	2.19
Stone	2.21
Sullivan	2.15
Taney	2.23
Texas	2.21
Vernon	2.17
Warren	2.17
Washington	2.18
Wayne	2.19
Webster	2.21
Worth	2.15
Wright	2.21
State weighted average	2.17
Montana	
All counties	2.19
Nebraska	
Adams	2.07
Antelope	2.07
Arthur	2.07
Banner	2.12
Blaine	2.03
Boone	2.07
Box Butte	2.10
Boyd	2.04
Brown	2.03
Buffalo	2.04
Burt	2.11
Butler	2.10
Cass	2.11
Cedar	2.05
Chase	2.06
Cherry	2.05
Cheyenne	2.10
Clay	2.09
Colfax	2.10
Cuming	2.09
Custer	2.03
Dakota	2.05
Dawes	2.10
Dawson	2.03
Deuel	2.10
Dixon	2.05
Dodge	2.10
Douglas	2.12
Dundy	2.05
Fillmore	2.10
Franklin	2.07
Frontier	2.05
Furnas	2.06
Gage	2.13
Garden	2.08
Garfield	2.04
Gosper	2.05
Grant	2.07
Greeley	2.06
Hall	2.08
Hamilton	2.06
Harlan	2.07
Hayes	2.05
Hitchcock	2.05
Holt	2.04
Hooker	2.05
Howard	2.06
Jefferson	2.12
Johnson	2.13
Kearney	2.06
Keith	2.08
Keya Paha	2.03
Kimball	2.12
Knox	2.05
Lancaster	2.11
Lincoln	2.05
Logan	2.04
Loup	2.03

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
McPherson	2.05
Madison	2.07
Merrick	2.06
Morrill	2.12
Nance	2.07
Nemaha	2.13
Nuckolls	2.09
Otoe	2.12
Pawnee	2.14
Perkins	2.07
Phelps	2.06
Pierce	2.07
Platte	2.08
Polk	2.08
Red Willow	2.05
Richardson	2.15
Rock	2.03
Saline	2.11
Sarpy	2.10
Saunders	2.10
Scotts Bluff	2.12
Seward	2.10
Sheridan	2.08
Sherman	2.04
Sioux	2.12
Stanton	2.09
Thayer	2.10
Thomas	2.04
Thurston	2.09
Valley	2.04
Washington	2.12
Wayne	2.07
Webster	2.07
Wheeler	2.06
York	2.08
State weighted average	2.07
Nevada	
All counties	2.32
New Hampshire	
All counties	2.34
New Jersey	
All counties	2.30
New Mexico	
Curry	2.21
Harding	2.21
Lea	2.21
Quay	2.21
Roosevelt	2.21
Union	2.21
All Other Counties	2.28
State weighted average	2.22
New York	
All counties	2.29
North Carolina	
All counties	2.27
North Dakota	
All counties	2.03
Ohio	
Adams	2.18
Allen	2.15
Ashland	2.18
Ashatabula	2.25
Athens	2.21
Auglaize	2.14
Belmont	2.23
Brown	2.18
Butler	2.15
Carroll	2.22
Champaign	2.14
Clark	2.14
Clermont	2.17
Clinton	2.16
Columbiana	2.25
Coshoctan	2.19
Crawford	2.16
Cuyahoga	2.21
Darke	2.13
Defiance	2.14
Delaware	2.15
Erie	2.17
Fairfield	2.17
Fayette	2.15
Franklin	2.14
Fulton	2.16
Gallia	2.19
Geauga	2.23
Greene	2.14
Guernsey	2.21
Hamilton	2.16
Hancock	2.16
Hardin	2.15
Harrison	2.23
Henry	2.16
Highland	2.16
Hocking	2.18
Holmes	2.19
Huron	2.17
Jackson	2.18
Jefferson	2.24
Knox	2.16
Lake	2.23
Lawrence	2.19
Licking	2.16
Logan	2.15
Lorain	2.18
Lucas	2.18
Madison	2.14
Mahoning	2.25
Marion	2.16
Medina	2.20
Meigs	2.20
Mercer	2.13
Miami	2.14
Monroe	2.24
Montgomery	2.14
Morgan	2.21
Morrow	2.16
Muskingum	2.19
Noble	2.22
Ottawa	2.18
Paulding	2.14
Perry	2.19
Pickaway	2.15
Pike	2.17
Portage	2.23
Preble	2.14
Putnam	2.15
Richland	2.16
Ross	2.16
Sandusky	2.16
Scioto	2.18
Seneca	2.16
Shelby	2.14
Stark	2.22
Summit	2.21
Trumbull	2.25
Tuscarawas	2.21
Union	2.15
Van Wert	2.14
Vinton	2.18
Warren	2.16
Wayne	2.20
Williams	2.15
Wood	2.16
Wyandot	2.16
State weighted average	2.16
Oklahoma	
Beaver	2.16
Beckham	2.20
Cimarron	2.15
Ellis	2.18
Harper	2.16
Roger Mills	2.20
Texas	2.15
All Other Counties	2.22
State weighted average	2.16
Oregon	
All counties	2.28
Pennsylvania	
All counties	2.29
Rhode Island	
All counties	2.34
South Carolina	
All counties	2.27
South Dakota	
Aurora	1.96
Beadle	1.96
Bennett	2.03
Bon Homme	2.00
Brookings	1.96
Brown	1.96
Brule	1.96
Buffalo	1.96
Butte	2.02
Campbell	1.98
Charles Mix	1.98
Clark	1.96
Clay	2.03
Codington	1.96
Corson	2.00
Custer	2.06
Davison	1.97
Day	1.96
Deuel	1.96
Dewey	2.00
Douglas	1.97
Edmunds	1.97
Fall River	2.09
Faulk	1.97
Grant	1.96
Gregory	1.98
Haakon	2.00
Hamlin	1.96
Hand	1.96
Hanson	1.97
Harding	2.02
Hughes	1.98
Hutchinson	1.99
Hyde	1.97
Jackson	2.01
Jerauld	1.96
Jones	2.00
Kingsbury	1.96
Lake	1.98
Lawrence	2.02
Lincoln	2.01
Lyman	1.98
McCook	1.98
McPherson	1.97
Marshall	1.96
Meade	2.01
Mellette	2.00
Miner	1.97
Minnehaha	1.99
Moody	1.98
Pennington	2.03
Perkins	2.00
Potter	1.99
Roberts	1.96
Shannon	2.06
Spink	1.96
Stanley	2.00
Sully	1.98
Todd	2.01
Tripp	1.99
Turner	2.00
Union	2.03
Walworth	1.99
Yankton	2.01
Ziebach	2.01
State weighted average	1.99
Tennessee	
All Counties	2.23
Texas	
Armstrong	2.17
Bailey	2.17
Briscoe	2.17
Carson	2.17
Castro	2.17
Childress	2.18
Cochran	2.19
Collingsworth	2.18
Cottle	2.19
Crosby	2.19
Dallam	2.17
Deaf Smith	2.17
Dickens	2.19
Donley	2.18
Floyd	2.17
Gray	2.17
Hale	2.17
Hall	2.18
Hansford	2.17
Hartley	2.17
Hemphill	2.17
Hockley	2.19

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
Hutchinson	2.17
King	2.19
Lamb	2.17
Lipscomb	2.17
Lubbock	2.19
Moore	2.17
Motley	2.19
Ochiltree	2.17
Oldham	2.17
Parmer	2.17
Potter	2.17
Randall	2.17
Roberts	2.17
Sherman	2.17
Swisher	2.17
Wheeler	2.18
All Other Counties	2.24
State weighted average	2.18
Utah	
All counties	2.31
Vermont	
All counties	2.34
Virginia	
All counties	2.28
Washington	
All counties	2.28
West Virginia	
All counties	2.27
Wisconsin	
Adams	2.07
Ashland	2.07
Barron	2.05
Bayfield	2.04
Brown	2.09
Buffalo	2.04
Burnett	2.03
Calumet	2.09
Chippewa	2.05
Clark	2.07
Columbia	2.11
Crawford	2.07
Dane	2.13
Dodge	2.13
Door	2.10
Douglas	2.02
Dunn	2.05
Eau Claire	2.05
Florence	2.09
Fond du Lac	2.11
Forest	2.09
Grant	2.09
Green	2.13
Green Lake	2.11
Iowa	2.13
Iron	2.08
Jackson	2.05
Jefferson	2.14
Juneau	2.07
Kenosha	2.16
Kewaunee	2.10
La Crosse	2.04
Lafayette	2.12
Langlade	2.09
Lincoln	2.08
Manitowoc	2.10
Marathon	2.08
Marinette	2.09
Marquette	2.09
Menominee	2.09
Milwaukee	2.14
Monroe	2.05
Oconto	2.09
Oneida	2.09
Outagamie	2.08
Ozaukee	2.12
Pepin	2.04
Pierce	2.04
Polk	2.03
Portage	2.08
Price	2.07
Racine	2.16
Richland	2.10
Rock	2.14
Rusk	2.06

1979—Crop Corn Loan and Purchase—Continued

County	Rate per bushel
St. Croix	2.04
Sauk	2.10
Sawyer	2.06
Shawano	2.09
Sheboygan	2.10
Taylor	2.07
Trempealeau	2.04
Vernon	2.05
Vilas	2.09
Walworth	2.15
Washburn	2.05
Washington	2.13
Waukesha	2.14
Waupaca	2.09
Waushara	2.09
Winnebago	2.09
Wood	2.07
State weighted average	2.10
Wyoming	
All counties	2.19

Since the 1979 crop of corn has been harvested in the corn producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C., on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25141 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Sorghum Supplement, Amendment 1]

1979 Crop Sorghum Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.239 that appeared in the **Federal Register** at 44 FR 44822. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979 crop sorghum national average loan and purchase rates from $3.39 to $3.57 per hundredweight, previously announced in the **Federal Register.** Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447-7923.

With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980, that the 1979 loan and purchase rate for sorghum was being increased to $3.57 per hundredweight in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $3.57 per hundredweight for the 1979 crop of sorghum, published in the **Federal Register** on January 30, 1980 (45 FR 6812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units

of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.239(a) is revised to read as follows:

§ 1421.239 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per hundredweight for loan and settlement purposes for sorghum are established for sorghum grading No. 2 as follows:

1979—Crop Sorghum Loan and Purchase

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Alabama	
All counties	$3.56
Arizona	
Apache	3.55
Cochise	3.77
Coconino	3.55
Gila	3.55
Graham	3.59
Greenlee	3.55
Maricopa	3.91
Mohave	4.03
Navajo	3.55
Pima	3.83
Pinal	3.91
Santa Cruz	3.80
Yavapai	3.55
Yuma	3.96
Weighted State average	3.80
Arkansas	
Arkansas	3.62
Ashley	3.58
Baxter	3.50
Benton	3.47
Boone	3.48
Bradley	3.56
Calhoun	3.55
Carroll	3.46
Chicot	3.58
Clark	3.54
Clay	3.64
Cleburne	3.57
Cleveland	3.58
Columbia	3.56
Conway	3.54
Craighead	3.65
Crawford	3.52
Crittenden	3.66
Cross	3.65
Dallas	3.56
Desha	3.60
Drew	3.58
Faulkner	3.56
Franklin	3.51
Fulton	3.55
Garland	3.52
Grant	3.53
Greene	3.64
Hempstead	3.55
Hot Spring	3.53
Howard	3.53
Independence	3.57
Izard	3.53
Jackson	3.62
Jefferson	3.58
Johnson	3.51
Lafayette	3.57
Lawrence	3.62
Lee	3.65
Lincoln	3.59
Little River	3.55
Logan	3.51
Lonoke	3.60
Madison	3.47
Marion	3.48
Miller	3.57
Mississippi	3.66
Monroe	3.64
Montgomery	3.51
Nevada	3.54
Newton	3.49
Ouachita	3.55
Perry	3.53
Phillips	3.65
Pike	3.53
Poinsett	3.65
Polk	3.52
Pope	3.52
Prairie	3.62
Pulaski	3.58
Randolph	3.61
St. Francis	3.65
Saline	3.53
Scott	3.52
Searcy	3.50
Sebastian	3.52
Sevier	3.53
Sharp	3.57
Stone	3.53
Union	3.56
Van Buren	3.55
Washington	3.48
White	3.60
Woodruff	3.63
Yell	3.53
Weighted State average	3.62
California	
Alameda	4.05
Amador	4.04
Butte	3.94
Calaveras	4.04
Colusa	3.98
Contra Costa	4.05
El Dorado	4.03
Fresno	3.97
Glenn	3.95
Humboldt	3.69
Imperial	4.00
Invo	3.76
Kern	4.01
Kings	3.96
Lake	3.88
Lassen	3.73
Los Angeles	4.05
Madera	4.00
Marin	4.01
Mariposa	4.00
Mendocino	3.80
Merced	4.01
Modoc	3.72
Monterey	3.92
Napa	3.99
Orange	4.05
Placer	3.98
Plumas	3.80
Riverside	4.00
Sacramento	4.05
San Benito	3.98
San Bernardino	4.03
San Diego	4.05
San Francisco	4.05
San Joaquin	4.05
San Luis Obispo	3.89
San Mateo	4.04
Santa Barbara	3.92
Santa Clara	4.05
Santa Cruz	3.97
Shasta	3.75
Sierra	3.82
Siskiyou	3.71
Solano	4.04
Sonoma	4.00
Stanislaus	4.05
Sutter	3.98
Tehama	3.93
Tulare	3.95
Tuolumne	4.00
Ventura	4.02
Yolo	3.98
Yuba	3.97
Weighted State average	3.98
Colorado	
Baca	3.52
All other counties	3.47
Weighted State average	3.47
Delaware	
All counties	3.61
Florida	
All counties	3.56
Georgia	
All counties	3.61
Idaho	
All counties	3.34
Illinois	
Alexander	3.61
Bond	3.53
Calhoun	3.49
Clay	3.53
Clinton	3.55
Edwards	3.55
Franklin	3.56
Gallatin	3.55
Hamilton	3.57
Hardin	3.58
Jackson	3.58
Jefferson	3.55
Jersey	3.49
Johnson	3.59
Lawrence	3.51
Madison	3.55
Marion	3.54
Massac	3.60
Monroe	3.55
Perry	3.56
Pope	3.59
Pulaski	3.61
Randolph	3.56
Richland	3.52
St. Clair	3.55
Saline	3.57
Union	3.60
Wabash	3.52
Washington	3.55
Wayne	3.55
White	3.55
Williamson	3.58
All other counties	3.43
Weighted State average	3.54
Indiana	
All counties	3.48
Iowa	
Adair	3.46
Adams	3.45
Appanoose	3.42
Audubon	3.44
Calhoun	3.39
Carroll	3.43
Cass	3.47
Clarke	3.43
Crawford	3.44
Decatur	3.44
Fremont	3.47
Greene	3.40
Guthrie	3.43
Harrison	3.46
Ida	3.41
Lucas	3.42
Madison	3.44
Marion	3.39
Mills	3.47
Monona	3.45
Monroe	3.40
Montgomery	3.47
Page	3.47
Pottawattamie	3.47
Ringgold	3.46
Sac	3.41
Shelby	3.45
Taylor	3.46
Union	3.44
Warren	3.42
Wayne	3.43
Woodbury	3.43
All other counties	3.35

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Weighted State average	3.43
Kansas	
Allen	3.55
Anderson	3.56
Atchison	3.59
Barber	3.45
Barton	3.41
Bourbon	3.56
Brown	3.56
Butler	3.46
Chase	3.51
Chautauqua	3.50
Cherokee	3.54
Cheyenne	3.38
Clark	3.45
Clay	3.47
Cloud	3.46
Coffey	3.53
Comanche	3.45
Cowley	3.46
Crawford	3.55
Decatur	3.40
Dickinson	3.46
Doniphan	3.55
Douglas	3.57
Edwards	3.41
Elk	3.50
Ellis	4.41
Ellsworth	3.43
Finney	3.42
Ford	3.45
Franklin	3.58
Geary	3.50
Gove	3.41
Graham	3.41
Grant	3.42
Gray	3.44
Greeley	3.38
Greenwood	3.51
Hamilton	3.40
Harper	3.45
Harvey	3.45
Haskell	3.43
Hodgeman	3.43
Jackson	3.57
Jefferson	3.58
Jewell	3.44
Johnson	3.58
Kearny	3.40
Kingman	3.44
Kiowa	3.43
Labette	3.54
Lane	3.39
Leavenworth	3.59
Lincoln	3.44
Linn	3.58
Logan	3.39
Lyon	3.52
McPherson	3.45
Marion	3.46
Marshall	3.51
Meade	3.44
Miami	3.58
Mitchell	3.44
Montgomery	3.54
Morris	3.50
Morton	3.44
Nemaha	3.53
Neosho	3.55
Ness	3.40
Norton	3.41
Osage	3.54
Osborne	3.43
Ottawa	3.45
Pawnee	3.41
Phillips	3.42
Pottawatomie	3.53
Pratt	3.43
Rawlins	3.39
Reno	3.43
Republic	3.46
Rice	3.43
Riley	3.51
Rooks	3.43
Rush	3.41
Russell	3.41
Saline	3.45
Scott	3.39
Sedgwick	3.45
Seward	3.44
Shawnee	3.56
Sheridan	3.41
Sherman	3.38
Smith	3.43
Stafford	3.41
Stanton	3.42
Stevens	3.44
Sumner	3.45
Thomas	3.39
Trego	3.41
Wabaunsee	3.53
Wallace	3.38
Washington	3.47
Wichita	3.39
Wilson	3.54
Woodson	3.53
Wyandotte	3.59
Weighted State average	3.48
Kentucky	
All counties	3.56
Louisiana	
All counties	3.58
Maryland	
All counties	3.61
Michigan	
All counties	3.43
Minnesota	
All counties	3.38
Mississippi	
All counties	3.56
Missouri	
Adair	3.42
Andrew	3.55
Atchison	3.47
Audrain	3.47
Barry	3.45
Barton	3.49
Bates	3.55
Benton	3.49
Bollinger	3.58
Boone	3.46
Buchanan	3.57
Butler	3.64
Caldwell	3.57
Callaway	3.45
Camden	3.48
Cape Girardeau	3.59
Carroll	3.56
Carter	3.58
Cass	3.57
Cedar	3.48
Chariton	3.52
Christian	3.46
Clark	3.37
Clay	3.59
Clinton	3.58
Cole	3.45
Cooper	3.49
Crawford	3.48
Dade	3.45
Dallas	3.48
Daviess	3.52
De Kalb	3.52
Dent	3.51
Douglas	3.51
Dunklin	3.67
Franklin	3.51
Gasconade	3.46
Gentry	3.48
Greene	3.45
Grundy	3.51
Harrison	3.47
Henry	3.53
Hickory	3.49
Holt	3.50
Howard	3.49
Howell	3.54
Iron	3.57
Jackson	3.59
Jasper	3.48
Jefferson	3.55
Johnson	3.55
Knox	3.41
Laclede	3.48
Lafayette	3.57
Lawrence	3.45
Lewis	3.39
Lincoln	3.49
Linn	3.49
Livingston	3.55
McDonald	3.45
Macon	3.46
Madison	3.58
Maries	3.46
Marion	3.41
Mercer	3.47
Miller	3.47
Mississippi	3.60
Moniteau	3.45
Monroe	3.46
Montgomery	3.48
Morgan	3.49
New Madrid	3.63
Newton	3.45
Nodaway	3.50
Oregon	3.57
Osage	3.46
Ozark	3.52
Pemiscot	3.68
Perry	3.57
Pettis	3.49
Phelps	3.46
Pike	3.46
Platte	3.59
Polk	3.46
Pulaski	3.46
Putnam	3.45
Ralls	3.42
Randolph	3.47
Ray	3.59
Reynolds	3.53
Ripley	3.63
St. Charles	3.51
St. Clair	3.51
St. Francois	3.55
Ste. Genevieve	3.56
St. Louis	3.55
Saline	3.53
Schuyler	3.39
Scotland	3.37
Scott	3.59
Shannon	3.53
Shelby	3.43
Stoddard	3.61
Stone	3.46
Sullivan	3.45
Taney	3.48
Texas	3.48
Vernon	3.52
Warren	3.50
Washington	3.54
Wayne	3.61
Webster	3.45
Worth	3.48
Wright	3.47
Weighted State average	3.54
Nebraska	
Antelope	3.43
Burt	3.46
Butler	3.46
Cass	3.47
Colfax	3.45
Cuming	3.45
Dodge	3.48
Douglas	3.47
Gage	3.47
Hall	3.42
Hamilton	3.43
Jefferson	3.44
Johnson	3.47
Lancaster	3.46
Madison	3.44
Merrick	3.42
Nemaha	3.48
Otoe	3.46

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Pawnee	3.48
Pierce	3.44
Platte	3.44
Polk	3.44
Richardson	3.50
Saline	3.46
Sarpy	3.47
Saunders	3.46
Seward	3.46
Stanton	3.45
Thayer	3.42
Thurston	3.45
Washington	3.47
York	3.45
All other counties	3.40
Weighted State average	3.44
Nevada	
All counties	3.50
New Mexico	
Chaves	3.54
Curry	3.56
De Baca	3.53
Guadalupe	3.53
Harding	3.55
Hidalgo	3.59
Lea	3.56
Luna	3.59
Quay	3.56
Roosevelt	3.56
Union	3.52
All other counties	3.51
Weighted State average	3.56
North Carolina	
All counties	3.61
North Dakota	
All counties	3.33
Ohio	
All counties	3.48
Oklahoma	
Adair	3.60
Alfalfa	3.57
Atoka	3.68
Beaver	3.53
Beckham	3.62
Blaine	3.63
Bryan	3.68
Caddo	3.67
Canadian	3.66
Carter	3.68
Cherokee	3.65
Choctaw	3.68
Cimarron	3.53
Cleveland	3.68
Coal	3.68
Comanche	3.67
Cotton	3.67
Craig	3.58
Creek	3.66
Custer	3.63
Delaware	3.60
Dewey	3.58
Ellis	3.57
Garfield	3.60
Garvin	3.68
Grady	3.68
Grant	3.57
Greer	3.63
Harmon	3.62
Harper	3.53
Haskell	3.66
Hughes	3.67
Jackson	3.63
Jefferson	3.68
Johnston	3.68
Kay	3.57
Kingfisher	3.63
Kiowa	3.66
Latimer	3.67
Le Flore	3.66
Lincoln	3.67
Logan	3.64
Love	3.68
McClain	3.68
McCurtain	3.66
McIntosh	3.66
Major	3.58
Marshall	3.69
Mayes	3.60
Murray	3.68
Muskogee	3.66
Noble	3.61
Nowata	3.58
Okfuskee	3.66
Oklahoma	3.67
Okmulgee	3.66
Osage	3.59
Ottawa	3.58
Pawnee	3.62
Payne	3.64
Pittsburg	3.67
Pontotoc	3.68
Pottawatimie	3.67
Pushmataha	3.68
Roger Mills	3.58
Rogers	3.60
Seminole	3.67
Sequoyah	3.65
Stephens	3.68
Texas	3.53
Tillman	3.63
Tulsa	3.65
Wagoner	3.64
Washington	3.57
Washita	3.65
Woods	3.57
Woodward	3.55
Weighted State average	3.58
Oregon	
All counties	3.49
Pennsylvania	
All counties	3.61
South Carolina	
All counties	3.61
South Dakota	
Bon Homme	3.42
Clay	3.44
Hutchinson	3.41
Lincoln	3.43
Turner	3.41
Union	3.44
Yankton	3.44
All Other Counties	3.40
Weighted State average	3.40
Tennessee	
Shelby	3.68
All Other Counties	3.56
Weighted State Average	3.56
Texas	
Anderson	3.75
Andrews	3.54
Angelina	3.80
Aransas	3.88
Archer	3.64
Armstrong	3.57
Atascosa	3.80
Austin	3.85
Bailey	3.56
Bandera	3.76
Bastrop	3.75
Baylor	3.64
Bee	3.87
Bell	3.72
Bexar	3.75
Blanco	3.76
Borden	3.56
Bosque	3.68
Bowie	3.65
Brazoria	3.88
Brazos	3.79
Brewster	3.47
Briscoe	3.58
Brooks	3.86
Brown	3.66
Burleson	3.77
Burnet	3.75
Caldwell	3.76
Calhoun	3.84
Callahan	3.64
Cameron	3.92
Camp	3.66
Carson	3.57
Cass	3.65
Castro	3.56
Chambers	3.92
Cherokee	3.72
Childress	3.62
Clay	3.66
Cochran	3.56
Coke	3.62
Coleman	3.65
Collin	3.68
Collingsworth	3.61
Colorado	3.82
Comal	3.75
Comanche	3.68
Concho	3.66
Cooke	3.68
Coryell	3.69
Cottle	3.62
Crane	3.54
Crockett	3.52
Crosby	3.59
Culbertson	3.47
Dallam	3.52
Dallas	3.68
Dawson	3.56
Deaf Smith	3.56
Delta	3.67
Denton	3.68
DeWitt	3.81
Dickens	3.62
Dimmit	3.69
Donley	3.57
Duval	3.83
Eastland	3.67
Ector	3.53
Edwards	3.66
Ellis	3.68
El Paso	3.47
Erath	3.68
Falls	3.74
Fannin	3.68
Fayette	3.77
Fisher	3.62
Floyd	3.58
Foard	3.62
Fort Bend	3.88
Franklin	3.66
Freestone	3.73
Frio	3.71
Gaines	3.56
Galveston	3.92
Garza	3.58
Gillespie	3.74
Glasscock	3.56
Goliad	3.87
Gonzales	3.77
Gray	3.57
Grayson	3.69
Gregg	3.65
Grimes	3.84
Guadalupe	3.75
Hale	3.56
Hall	3.60
Hamilton	3.68
Hansford	3.52
Hardeman	3.62
Hardin	3.92
Harris	3.92
Harrison	3.66
Hartley	3.52
Haskell	3.64
Hays	3.75
Hemphill	3.55
Henderson	3.71
Hidalgo	3.89
Hill	3.69
Hockley	3.56
Hood	3.68
Hopkins	3.67
Houston	3.80
Howard	3.56

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Hudspeth	3.48
Hunt	3.68
Hutchinson	3.52
Irion	3.58
Jack	3.68
Jackson	3.80
Jasper	3.82
Jeff Davis	3.48
Jefferson	3.92
Jim Hogg	3.83
Jim Wells	3.89
Johnson	3.68
Jones	3.64
Karnes	3.85
Kaufman	3.68
Kendall	3.76
Kenedy	3.86
Kent	3.62
Kerr	3.75
Kimble	3.70
King	3.62
Kinney	3.68
Kleberg	3.89
Knox	3.64
Lamar	3.67
Lamb	3.56
Lampasas	3.70
La Salle	3.72
Lavaca	3.78
Lee	3.77
Leon	3.75
Liberty	3.88
Limestone	3.73
Lipscomb	3.52
Live Oak	3.85
Llano	3.72
Loving	3.53
Lubbock	3.56
Lynn	3.56
McCulloch	3.66
McLennan	3.72
McMullen	3.76
Madison	3.79
Marion	3.66
Martin	3.56
Mason	3.70
Matagorda	3.86
Maverick	3.62
Medina	3.74
Menard	3.66
Midland	3.55
Milam	3.76
Mills	3.68
Mitchell	3.59
Montague	3.68
Montgomery	3.89
Moore	3.52
Morris	3.66
Motley	3.60
Nacogdoches	3.73
Navarro	3.72
Newton	3.82
Nolan	3.62
Nueces	3.92
Ochiltree	3.52
Oldham	3.56
Orange	3.88
Palo Pinto	3.68
Panola	3.72
Parker	3.68
Parmer	3.56
Pecos	3.52
Polk	3.85
Potter	3.56
Presidio	3.47
Rains	3.67
Randall	3.56
Reagan	3.55
Real	3.73
Red River	3.66
Reeves	3.54
Refugio	3.89
Roberts	3.53
Robertson	3.75
Rockwall	3.68
Runnels	3.63
Rusk	3.69

1979—Crop Sorghum Loan and Purchase—Continued

[Basic county loan and purchase rates for sorghum No. 2 or better]

County	Rate per hundredweight
Sabine	3.77
San Augustine	3.77
San Jacinto	3.83
San Patricio	3.92
San Saba	3.67
Schleicher	3.59
Scurry	3.59
Shackelford	3.65
Shelby	3.73
Sherman	3.51
Smith	3.69
Somervell	3.68
Starr	3.85
Stephens	3.67
Sterling	3.58
Stonewall	3.64
Sutton	3.64
Swisher	3.56
Tarrant	3.68
Taylor	3.64
Terrell	3.52
Terry	3.56
Throckmorton	3.65
Titus	3.66
Tom Green	3.62
Travis	3.75
Trinity	3.81
Tyler	3.82
Upshur	3.66
Upton	3.53
Uvalde	3.73
Val Verde	3.63
Van Zandt	3.67
Victoria	3.84
Walker	3.84
Waller	3.86
Ward	3.54
Washington	3.85
Webb	3.70
Wharton	3.84
Wheeler	3.58
Wichita	3.63
Wilbarger	3.63
Willacy	3.91
Williamson	3.75
Wilson	3.80
Winkler	3.53
Wise	3.68
Wood	3.67
Yoakum	3.56
Young	3.67
Zapata	3.82
Zavala	3.67
Weighted State average	3.71
Utah	
All counties	3.47
Virginia	
All counties	3.61
Washington	
All counties	3.49
Wisconsin	
All counties	3.38
Wyoming	
All counties	3.39

Since the 1979 crop of sorghum has been harvested in the sorghum producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25148 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Oats Supplement, Amendment 1]

1979 Crop Oats Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.274 that appeared in the **Federal Register** at 44 FR 31614. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979-crop oats national average loan and purchase rates from $1.03 to $1.08 per bushel, previously announced in the **Federal Register.** Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447-7923.

With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced

that effective January 8, 1980 that the 1979 loan and purchase rate for oats was being increased to $1.08 per bushel in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $1.08 per bushel for the 1979 crop of oats, published in the **Federal Register** on January 30, 1980, (45 FR 61812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.274(a) is revised to read as follows:

§ 1421.274 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for oats are established for oats grading No. 3 or better as follows:

1979—Crop Oats Loan and Purchase Rates

County	Rate per bushel
Alabama	
All counties	$1.20
Alaska[1]	
Delta	1.01
Fairbanks	1.00
Glenallen	1.07
Homer	1.04
Kenai-Soldotna	1.09
Palmer	1.13
Talkeetna	1.13
Arizona	
All counties	1.27
Arkansas	
All counties	1.18
California	
All counties	1.27

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
Colorado	
All counties	1.17
Connecticut	
All counties	1.19
Delaware	
All counties	1.19
Florida	
All counties	1.23
Georgia	
All counties	1.20
Idaho	
All counties	1.17
Illinois	
Adams	1.11
Alexander	1.14
Bond	1.12
Boone	1.11
Brown	1.11
Bureau	1.11
Calhoun	1.12
Carroll	1.11
Cass	1.11
Champaign	1.11
Christian	1.11
Clark	1.13
Clay	1.13
Clinton	1.13
Coles	1.11
Cook	1.14
Crawford	1.14
Cumberland	1.12
De Kalb	1.11
De Witt	1.11
Douglas	1.11
Du Page	1.11
Edgar	1.12
Edwards	1.15
Effingham	1.12
Fayette	1.12
Ford	1.11
Franklin	1.14
Fulton	1.11
Gallatin	1.15
Greene	1.12
Grundy	1.11
Hamilton	1.14
Hancock	1.11
Hardin	1.15
Henderson	1.11
Henry	1.11
Iroquois	1.12
Jackson	1.14
Jasper	1.13
Jefferson	1.14
Jersey	1.12
Jo Daviess	1.11
Johnson	1.14
Kane	1.11
Kankakee	1.12
Kendall	1.11
Knox	1.11
Lake	1.12
La Salle	1.11
Lawrence	1.15
Lee	1.11
Livingston	1.11
Logan	1.11
McDonough	1.11
McHenry	1.11
McLean	1.11
Macon	1.11
Macoupin	1.12
Madison	1.13
Marion	1.13
Marshall	1.11
Mason	1.11
Massac	1.14
Menard	1.11
Mercer	1.11
Monroe	1.14
Montgomery	1.12
Morgan	1.11
Moultrie	1.11
Ogle	1.11

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
Peoria	1.11
Perry	1.14
Piatt	1.11
Pike	1.11
Pope	1.15
Pulaski	1.14
Putnam	1.11
Randolph	1.14
Richland	1.13
Rock Island	1.11
St. Clair	1.14
Saline	1.15
Sangamon	1.11
Schuyler	1.11
Scott	1.11
Shelby	1.11
Stark	1.11
Stephenson	1.11
Tazewell	1.11
Union	1.14
Vermilion	1.12
Wabash	1.15
Warren	1.11
Washington	1.14
Wayne	1.14
White	1.15
Whiteside	1.11
Will	1.13
Williamson	1.14
Winnebago	1.11
Woodford	1.11
State weighted average	1.11
Indiana	
Adams	1.18
Allen	1.18
Bartholomew	1.18
Benton	1.16
Blackford	1.17
Boone	1.17
Brown	1.19
Carroll	1.17
Cass	1.17
Clark	1.19
Clay	1.17
Clinton	1.17
Crawford	1.19
Daviess	1.19
Dearborn	1.20
Decatur	1.18
De Kalb	1.18
Delaware	1.17
Dubois	1.19
Elkhart	1.18
Fayette	1.17
Floyd	1.19
Fountain	1.16
Franklin	1.19
Fulton	1.17
Gibson	1.19
Grant	1.17
Greene	1.19
Hamilton	1.17
Hancock	1.17
Harrison	1.19
Hendricks	1.17
Henry	1.17
Howard	1.17
Huntington	1.17
Jackson	1.19
Jasper	1.16
Jay	1.18
Jefferson	1.20
Jennings	1.20
Johnson	1.17
Knox	1.19
Kosciusko	1.17
Lagrange	1.18
Lake	1.17
La Porte	1.18
Lawrence	1.19
Madison	1.17
Marion	1.17
Marshall	1.17
Martin	1.19
Miami	1.17
Monroe	1.19
Montgomery	1.17
Morgan	1.17
Newton	1.16

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
Noble	1.17
Ohio	1.20
Orange	1.19
Owen	1.17
Parke	1.16
Perry	1.19
Pike	1.19
Porter	1.17
Posey	1.19
Pulaski	1.17
Putnam	1.17
Randolph	1.18
Ripley	1.20
Rush	1.17
St. Joseph	1.18
Scott	1.20
Shelby	1.17
Spencer	1.19
Starke	1.17
Steuben	1.18
Sullivan	1.18
Switzerland	1.20
Tippecanoe	1.17
Tipton	1.17
Union	1.18
Vanderburgh	1.19
Vermillion	1.16
Vigo	1.17
Wabash	1.17
Warren	1.16
Warrick	1.19
Washington	1.19
Wayne	1.18
Wells	1.17
White	1.17
Whitley	1.17
State weighted average	1.18
Iowa	
Adair	1.09
Adams	1.09
Allamakee	1.06
Appanoose	1.09
Audubon	1.07
Benton	1.09
Black Hawk	1.08
Boone	1.07
Bremer	1.07
Buchanan	1.08
Buena Vista	1.07
Butler	1.07
Calhoun	1.07
Carroll	1.07
Cass	1.09
Cedar	1.09
Cerro Gordo	1.08
Cherokee	1.07
Chickasaw	1.07
Clarke	1.09
Clay	1.06
Clayton	1.07
Clinton	1.09
Crawford	1.06
Dallas	1.07
Davis	1.10
Decatur	1.09
Delaware	1.08
Des Moines	1.09
Dickinson	1.05
Dubuque	1.08
Emmet	1.05
Fayette	1.07
Floyd	1.06
Franklin	1.07
Fremont	1.09
Greene	1.07
Grundy	1.07
Guthrie	1.07
Hamilton	1.07
Hancock	1.06
Hardin	1.07
Harrison	1.07
Henry	1.09
Howard	1.06
Humboldt	1.07
Ida	1.06
Iowa	1.09
Jackson	1.09
Jasper	1.07
Jefferson	1.09
Johnson	1.09
Jones	1.09
Keokuk	1.09
Kossuth	1.05
Lee	1.09
Linn	1.09
Louisa	1.09
Lucas	1.09
Lyon	1.04
Madison	1.09
Mahaska	1.09
Marion	1.09
Marshall	1.07
Mills	1.09
Mitchell	1.05
Monona	1.06
Monroe	1.09
Montgomery	1.09
Muscatine	1.09
O'Brien	1.06
Osceola	1.04
Page	1.09
Palo Alto	1.07
Plymouth	1.05
Pocahontas	1.07
Polk	1.07
Pottawattamie	1.10
Poweshiek	1.07
Ringgold	1.09
Sac	1.07
Scott	1.09
Shelby	1.07
Sioux	1.05
Story	1.07
Tama	1.07
Taylor	1.09
Union	1.09
Van Buren	1.09
Wapello	1.09
Warren	1.09
Washington	1.09
Wayne	1.09
Webster	1.07
Winnebago	1.05
Winneshiek	1.06
Woodbury	1.05
Worth	1.05
Wright	1.07
State weighted average	1.07
Kansas	
All counties	1.13
Kentucky	
All counties	1.20
Louisiana	
All counties	1.20
Maine	
All counties	1.19
Maryland	
All counties	1.20
Massachusetts	
All counties	1.19
Michigan	
Alcona	1.13
Alger	1.14
Allegan	1.15
Alpena	1.13
Antrim	1.14
Arenac	1.13
Baraga	1.13
Barry	1.15
Bay	1.13
Benzie	1.14
Berrien	1.16
Branch	1.16
Calhoun	1.15
Cass	1.16
Charlevoix	1.14
Cheboygan	1.14
Chippewa	1.14
Clare	1.14
Clinton	1.14
Crawford	1.13
Delta	1.13
Dickinson	1.13
Eaton	1.14
Emmet	1.14
Genesee	1.13
Gladwin	1.13
Gogebic	1.13
Grand Traverse	1.14
Gratiot	1.14
Hillsdale	1.16
Houghton	1.13
Huron	1.13
Ingham	1.14
Ionia	1.14
Iosco	1.13
Iron	1.13
Isabella	1.14
Jackson	1.15
Kalamazoo	1.15
Kalkaska	1.14
Kent	1.15
Keweenaw	1.13
Lake	1.15
Lapeer	1.13
Leelanau	1.14
Lenawee	1.16
Livingston	1.14
Luce	1.14
Mackinac	1.14
Macomb	1.14
Manistee	1.15
Marquette	1.13
Mason	1.15
Mecosta	1.14
Menominee	1.13
Midland	1.13
Missaukee	1.14
Monroe	1.16
Montcalm	1.14
Montmorency	1.13
Muskegon	1.15
Newaygo	1.15
Oakland	1.14
Oceana	1.15
Ogemaw	1.13
Ontonagon	1.13
Osceola	1.14
Oscoda	1.13
Otsego	1.14
Ottawa	1.15
Presque Isle	1.13
Roscommon	1.13
Saginaw	1.13
St. Clair	1.14
St. Joseph	1.16
Sanilac	1.13
Schoolcraft	1.14
Shiawassee	1.13
Tuscola	1.13
Van Buren	1.15
Washtenaw	1.15
Wayne	1.15
Wexford	1.15
State weighted average	1.14
Minnesota	
Aitkin	1.04
Anoka	1.06
Becker	1.00
Beltrami	1.00
Benton	1.04
Big Stone	1.01
Blue Earth	1.04
Brown	1.03
Carlton	1.06
Carver	1.05
Cass	1.02
Chippewa	1.02
Chisago	1.06
Clay	.99
Clearwater	1.00
Cook	1.06
Cottonwood	1.03
Crow Wing	1.03
Dakota	1.05
Dodge	1.02
Douglas	1.04
Faribault	1.04
Fillmore	1.05
Freeborn	1.05
Goodhue	1.04
Grant	1.01

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
Hennepin	1.06
Houston	1.05
Hubbard	1.01
Isanti	1.05
Itasca	1.04
Jackson	1.03
Kanabec	1.05
Kandiyohi	1.03
Kittson	.97
Koochiching	1.01
Lac Qui Parle	1.02
Lake	1.06
Lake of the Woods	.99
Le Sueur	1.04
Lincoln	1.02
Lyon	1.02
McLeod	1.04
Mahnomen	.99
Marshall	.98
Martin	1.03
Meeker	1.04
Mille Lacs	1.04
Morrison	1.03
Mower	1.04
Murray	1.02
Nicollet	1.04
Nobles	1.02
Norman	.98
Olmsted	1.04
Otter Tail	1.01
Pennington	.98
Pine	1.05
Pipestone	1.02
Polk	.98
Pope	1.02
Ramsey	1.06
Red Lake	.98
Redwood	1.03
Renville	1.03
Rice	1.04
Rock	1.02
Roseau	.98
St. Louis	1.06
Scott	1.05
Sherburne	1.05
Sibley	1.04
Stearns	1.03
Steele	1.04
Stevens	1.01
Swift	1.02
Todd	1.02
Traverse	1.00
Wabasha	1.04
Wadena	1.02
Waseca	1.04
Washington	1.06
Watonwan	1.03
Wilkin	1.00
Winona	1.05
Wright	1.05
Yellow Medicine	1.02
State weighted average	1.02
Mississippi	
All counties	1.20
Missouri	
All counties	1.14
Montana	
Beaverhead	1.13
Big Horn	1.06
Blaine	1.03
Broadwater	1.09
Carbon	1.08
Carter	1.02
Cascade	1.08
Chouteau	1.05
Custer	1.02
Daniels	1.00
Dawson	.99
Deer Lodge	1.11
Fallon	1.00
Fergus	1.05
Flathead	1.11
Gallatin	1.10
Garfield	1.02
Glacier	1.08
Golden Valley	1.07
Granite	1.12
Hill	1.04
Jefferson	1.10
Judith Basin	1.06
Lake	1.12
Lewis and Clarke	1.10
Liberty	1.05
Lincoln	1.13
McCone	1.00
Madison	1.11
Meagher	1.08
Mineral	1.13
Missoula	1.12
Musselshell	1.06
Park	1.10
Petroleum	1.03
Phillips	1.02
Pondera	1.07
Powder River	1.04
Powell	1.11
Prairie	1.01
Ravalli	1.12
Richland	.99
Roosevelt	.99
Rosebud	1.04
Sanders	1.13
Sheridan	.99
Silver Bow	1.11
Stillwater	1.08
Sweet Grass	1.09
Teton	1.07
Toole	1.06
Treasure	1.05
Valley	1.01
Wheatland	1.08
Wibaux	.99
Yellowstone	1.07
State weighted average	1.04
Nebraska	
Adams	1.09
Antelope	1.06
Arthur	1.07
Banner	1.07
Blaine	1.06
Boone	1.07
Box Butte	1.06
Boyd	1.04
Brown	1.05
Buffalo	1.08
Burt	1.08
Butler	1.09
Cass	1.10
Cedar	1.06
Chase	1.10
Cherry	1.05
Cheyenne	1.08
Clay	1.09
Colfax	1.08
Cuming	1.08
Custer	1.07
Dakota	1.08
Dawes	1.06
Dawson	1.08
Deuel	1.08
Dixon	1.07
Dodge	1.09
Douglas	1.10
Dundy	1.11
Fillmore	1.09
Franklin	1.10
Frontier	1.09
Furnas	1.10
Gage	1.11
Garden	1.07
Garfield	1.06
Gosper	1.09
Grant	1.06
Greeley	1.07
Hall	1.08
Hamilton	1.08
Harlan	1.10
Hayes	1.10
Hitchcock	1.11
Holt	1.05
Hooker	1.06
Howard	1.07
Jefferson	1.10
Johnson	1.11
Kearney	1.09
Keith	1.08
Keya Paha	1.04
Kimball	1.08
Knox	1.05
Lancaster	1.10
Lincoln	1.08
Logan	1.07
Loup	1.06
McPherson	1.07
Madison	1.07
Merrick	1.07
Merrill	1.07
Nance	1.07
Nemaha	1.11
Nuckolls	1.10
Otoe	1.10
Pawnee	1.11
Perkins	1.09
Phelps	1.09
Pierce	1.06
Platte	1.07
Polk	1.08
Red Willow	1.10
Richardson	1.11
Rock	1.05
Saline	1.10
Sarpy	1.10
Saunders	1.10
Scotts Bluff	1.07
Seward	1.09
Sheridan	1.06
Sherman	1.07
Sioux	1.06
Stanton	1.07
Thayer	1.10
Thomas	1.06
Thurston	1.08
Valley	1.07
Washington	1.09
Wayne	1.07
Webster	1.10
Wheeler	1.06
York	1.08
State weighted average	1.06
Nevada	
All counties	1.27
New Hampshire	
All counties	1.19
New Jersey	
All counties	1.20
New Mexico	
All counties	1.25
New York	
All counties	1.24
North Carolina	
All counties	1.20
North Dakota	
Adams	.96
Barnes	.97
Benson	.95
Billings	.94
Bottineau	.93
Bowman	.98
Burke	.94
Burleigh	.95
Cass	.98
Cavlier	.96
Dickey	.97
Divide	.96
Dunn	.94
Eddy	.96
Emmons	.96
Foster	.96
Golden Valley	.96
Grand Forks	.97
Grant	.95
Griggs	.96
Hettinger	.95
Kidder	.96
La Moure	.97
Logan	.96
McHenry	.93
McIntosh	.96
McKenzie	.96

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
McLean	.93
Mercer	.93
Morton	.94
Mountrail	.94
Nelson	.96
Oliver	.94
Pembina	.97
Pierce	.94
Ramsey	.96
Ransom	.98
Renville	.93
Richland	.99
Rolette	.94
Sargent	.96
Sheridan	.94
Sioux	.95
Slope	.97
Stark	.93
Steele	.97
Stutsman	.97
Towner	.95
Traill	.97
Walsh	.97
Ward	.93
Wells	.95
Williams	.96
State weighted average	.96
Ohio	
Adams	1.20
Allen	1.18
Ashland	1.19
Ashtabula	1.21
Athens	1.21
Auglaize	1.18
Belmont	1.22
Brown	1.20
Butler	1.18
Carroll	1.21
Champaign	1.19
Clark	1.19
Clermont	1.20
Clinton	1.20
Columbiana	1.21
Coshocton	1.20
Crawford	1.19
Cuyahoga	1.20
Darke	1.17
Defiance	1.17
Delaware	1.19
Erie	1.19
Fairfield	1.19
Fayette	1.19
Franklin	1.19
Fulton	1.18
Gallia	1.21
Geauga	1.20
Greene	1.19
Guernsey	1.21
Hamilton	1.19
Hancock	1.18
Hardin	1.18
Harrison	1.21
Henry	1.18
Highland	1.20
Hocking	1.20
Holmes	1.20
Huron	1.19
Jackson	1.20
Jefferson	1.22
Knox	1.19
Lake	1.20
Lawrence	1.20
Licking	1.19
Logan	1.19
Lorain	1.20
Lucas	1.18
Madison	1.19
Mahoning	1.21
Marion	1.19
Medina	1.20
Meigs	1.21
Mercer	1.16
Miami	1.18
Monroe	1.22
Montgomery	1.18
Morgan	1.21
Morrow	1.19
Muskingum	1.20
Noble	1.21
Ottawa	1.19
Paulding	1.17
Perry	1.20
Pickaway	1.19
Pike	1.20
Portage	1.20
Preble	1.17
Putnam	1.18
Richland	1.19
Ross	1.20
Sandusky	1.19
Scioto	1.20
Seneca	1.19
Shelby	1.18
Stark	1.20
Summit	1.20
Trumbull	1.21
Tuscarawas	1.20
Union	1.19
Van Wert	1.17
Vinton	1.20
Warren	1.19
Washington	1.22
Wayne	1.20
Williams	1.18
Wood	1.18
Wyandot	1.19
State weighted average	1.19
Oklahoma	
All counties	1.20
Oregon	
All counties	1.23
Pennsylvania	
All counties	1.24
Rhode Island	
All Counties	1.19
South Carolina	
All counties	1.20
South Dakota	
Aurora	.99
Beadle	.99
Bennett	1.00
Bon Homme	1.02
Brookings	1.00
Brown	.97
Brule	.99
Buffalo	.99
Butte	.98
Campbell	.96
Charles Mix	1.00
Clark	.98
Clay	1.04
Codington	.99
Corson	.96
Custer	1.01
Davison	.99
Day	.98
Deuel	1.00
Dewey	.98
Dougla	1.00
Edmunds	.97
Fall River	1.01
Faulk	.98
Grant	1.00
Gregory	1.00
Haakon	.99
Hamlin	.99
Hand	.99
Hanson	.99
Harding	.97
Hughes	.99
Hutchinson	1.01
Hyde	.99
Jackson	.99
Jerauld	.99
Jones	.99
Kingsbury	.99
Lake	.99
Lawrence	.98
Lincoln	1.02
Lyman	.99
McCook	1.00
McPherson	.96
Marshall	.97
Meade	.98
Mellette	1.00
Miner	.99
Minnehaha	1.01
Moody	1.00
Pennington	.99
Perkins	.96
Potter	.98
Roberts	.98
Sanborn	.99
Shannon	1.01
Spink	.98
Stanley	.99
Sully	.99
Todd	1.00
Tripp	1.00
Turner	1.02
Union	1.04
Walworth	.98
Yankton	1.03
Ziebach	.98
State weighted average	1.00
Tennessee	
All counties	1.20
Texas	
All counties	1.23
Utah	
All counties	1.25
Vermont	
All counties	1.19
Virginia	
All counties	1.20
Washington	
All counties	1.19
West Virginia	
All counties	1.22
Wisconsin	
Adams	1.09
Ashland	1.09
Barron	1.07
Bayfield	1.08
Brown	1.08
Buffalo	1.06
Burnett	1.06
Calumet	1.08
Chippewa	1.08
Clark	1.08
Columbia	1.08
Crawford	1.09
Dane	1.10
Dodge	1.09
Door	1.08
Douglas	1.06
Dunn	1.07
Eau Claire	1.07
Florence	1.10
Fond du Lac	1.08
Forest	1.10
Grant	1.09
Green	1.10
Green Lake	1.09
Iowa	1.10
Iron	1.10
Jackson	1.08
Jefferson	1.10
Juneau	1.09
Kenosha	1.11
Kewaunee	1.08
LaCrosse	1.07
Lafayette	1.10
Langlade	1.09
Lincoln	1.09
Manitowoc	1.08
Marathon	1.09
Marinette	1.10
Marquette	1.09
Menominee	1.09
Milwaukee	1.11
Monroe	1.08
Oconto	1.09
Oneida	1.10
Outagamie	1.08
Ozaukee	1.10

1979—Crop Oats Loan and Purchase Rates—Continued

County	Rate per bushel
Pepin	1.06
Pierce	1.06
Polk	1.06
Portage	1.09
Price	1.09
Racine	1.11
Richland	1.08
Rock	1.10
Rusk	1.08
Saint Croix	1.06
Sauk	1.10
Sawyer	1.08
Shawno	1.09
Sheboygan	1.09
Taylor	1.09
Trempealeau	1.07
Vernon	1.07
Vilas	1.10
Walworth	1.10
Washburn	1.07
Washington	1.10
Waukesha	1.11
Waupaca	1.09
Waushara	1.09
Winnebago	1.08
Wood	1.09
State weighted average	1.08
Wyoming	
All counties	1.15

[1] In Alaska, loan rates are for marketing areas.

Since the 1979 crop of oats has been harvested in the oats producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc 80-25146 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Rye Supplement, Amendment 1]

1979 Crop Rye Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.354 that appeared in the **Federal Register** at 44 FR 18467. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979 crop rye national average loan and purchase rates from $1.70 to $1.79 per bushel, previously announced in the **Federal Register.** Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Thomas Fink, ASCS, (202) 447-7923. With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980 that the 1979 loan and purchase rate for rye was being increased to $1.79 per bushel in accordance with Section 105A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $1.79 per bushel for the 1979 crop of rye, published in the **Federal Register** on January 30, 1980 (45 FR 61812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.354(a) is revised to read as follows:

§ 1421.354 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for rye are established for rye grading No. 2 or better as follows:

1979—Crop Rye Loan and Purchase Rates

County	Rate per bushel
Alabama	
All counties	$1.90
Arizona	
All counties	1.87
Arkansas	
All counties	1.84
California	
Alameda	2.04
Los Angeles	2.04
Sacramento	2.04
San Diego	2.04
San Francisco	2.04
San Joaquin	2.04
All other counties	1.91
Weighted State average	1.91
Colorado	
All counties	1.73
Connecticut	
All counties	1.88
Delaware	
All counties	1.93
Florida	
All counties	1.97
Georgia	
All counties	1.97
Idaho	
All counties	1.82
Illinois	
Cook	1.91
St. Clair	1.91
All other counties	1.85
Weighted State average	1.85
Indiana	
All counties	1.83
Iowa	
Pottawattamie	1.82
Woodbury	1.82
All other counties	1.78
Weighted State average	1.78
Kansas	
Wyandotte	1.82
All other counties	1.72
Weighted State average	1.72
Kentucky	
All counties	1.90
Louisiana	
East Baton Rouge	2.06
Jefferson	2.06
Orleans	2.06
St. Charles	2.06

1979—Crop Rye Loan and Purchase Rates—Continued

County	Rate per bushel
West Baton Rouge	2.06
All other parishes	1.87
Weighted State average	1.87
Maine	
All counties	1.88
Maryland	
Baltimore	2.04
All other counties	1.93
Weighted State average	1.93
Massachusetts	
All counties	1.88
Michigan	
All counties	1.75
Minnesota	
Hennepin	1.84
St. Louis	1.84
All other counties	1.78
Weighted State average	1.78
Mississippi	
All counties	1.92
Missouri	
St. Louis	1.95
All other counties	1.82
Weighted State average	1.82
Montana	
All counties	1.63
Nebraska	
All counties	1.72
Nevada	
All counties	1.77
New Hampshire	
All counties	1.88
New Jersey	
All counties	1.90
New Mexico	
All counties	1.77
New York	
Albany	2.04
New York City	2.04
All other counties	1.88
Weighted State average	1.88
North Carolina	
All counties	1.97
North Dakota	
All counties	1.68
Ohio	
All counties	1.83
Oklahoma	
All counties	1.80
Oregon	
Clatsop	2.05
Multnomah	2.05
All other counties	1.92
Weighted State average	1.92
Pennsylvania	
Philadelphia	2.04
All other counties	1.88
Weighted State average	1.88
Rhode Island	
All counties	1.88
South Carolina	
Charleston	2.04
All other counties	1.95
Weighted State average	1.95
South Dakota	
All counties	1.72
Tennessee	
Shelby	1.97
All other counties	1.92

1979—Crop Rye Loan and Purchase Rates—Continued

County	Rate per bushel
Weighted State average	1.92
Texas	
Galveston	2.06
Harris	2.06
Jefferson	2.06
Nueces	2.06
San Patricio	2.06
All other counties	1.85
Weighted State average	1.85
Utah	
All counties	1.72
Vermont	
All counties	1.88
Virginia	
Chesapeake (Norfolk)	2.04
All other counties	1.93
Weighted State average	1.93
Washington	
Clark	2.05
Cowlitz	2.05
King	2.05
Pierce	2.05
All other counties	1.92
Weighted State average	1.92
West Virginia	
All counties	1.90
Wisconsin	
Douglas	1.84
Milwaukee	1.92
All other counties	1.83
Weighted State average	1.83
Wyoming	
All counties	1.72

Since the 1979 crop of rye has been harvested in the rye producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25145 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1421

[CCC Grain Price Support Regulations, 1979 Crop Wheat Supplement, Amendment 1]

1979 Crop Wheat Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend 7 CFR 1421.490 that appeared in the **Federal Register** at 44 FR 47526. The rule revises the basic county loan and purchase rates to accord with the increase in the 1979-wheat national average loan and purchase rates from $2.35 to $2.50 per bushel, previously announced in the **Federal Register**. Premiums and discounts will remain unchanged.

EFFECTIVE DATE: January 8, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: W. W. Beesley, ASCS, (202) 447-7923. With respect to the availability of an impact analysis, the increases in the basic county loan and purchase rates announced by this final rule were considered under provisions of the "Notice of Increase of 1979 Crop Loan and Purchase Rates" published in the **Federal Register** (45 FR 6812) on January 30, 1980, as well as the Final Impact Statement prepared for that action. Thus, the Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Harold Jamison, Price Support and Loan Division (ASCS), Room 3749, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7973.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

On January 4, 1980, the President announced that exports of grain to the Soviet Union were being restricted in accordance with the Export Administration Act of 1979. As a result, the Secretary of Agriculture announced that effective January 8, 1980, that the 1979 loan and purchase rate for wheat was being increased to $2.50 per bushel in accordance with Section 107A of the Agricultural Act of 1949, as amended (7 U.S.C. 1444c). This action was taken by the Secretary to encourage producers to participate and remain in the loan and purchase program rather than disposing of their stocks in the market. It was determined that increased participation in the loan and purchase program would stabilize the market by permitting the orderly disposition of grain, thus preventing the accumulation of excess stocks.

This rule announces the revision of the individual basic county loan and purchase rates to conform with the increased national average loan and purchase rate of $2.50 per bushel for the 1979 crop of wheat, published in the **Federal Register** on January 30, 1980, (45 FR 6812), effective January 8, 1980.

Title and number of the federal assistance program that this Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051; as found in the catalog of Federal Domestic assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

Final Rule

Accordingly, 7 CFR 1421.490(a) is revised to read as follows:

§ 1421.490 Loan and purchase rates, premiums and discounts.

(a) Basic loan and purchase rate (counties). Basic rates per bushel for loan and settlement purposes for wheat are established for wheat grading No. 1 as follows:

1979—Crop Wheat Loan and Purchase Rates

County	Rate per bushel
Alabama	
Mobile	2.61
All other counties	2.42
Weighted State average	2.42
Arizona	
All counties	2.52
Arkansas	
All counties	2.43
California	
Alameda	2.68
Alpine	2.50
Amador	2.63
Butte	2.57
Calaveras	2.63
Colusa	2.62
Contra Costa	2.63
El Dorado	2.62
Fresno	2.58
Glenn	2.56
Humboldt	2.45
Imperial	2.60
Inyo	2.56
Kern	2.63
Kings	2.60
Lake	2.56
Lassen	2.45
Los Angeles	2.68
Madera	2.61
Marin	2.61
Mariposa	2.61
Mendocino	2.50
Merced	2.64
Modoc	2.45
Monterey	2.58
Napa	2.62
Orange	2.68
Placer	2.62
Plumas	2.45
Riverside	2.60
Sacramento	2.68
San Benito	2.61
San Bernardino	2.69
San Diego	2.68
San Francisco	2.68
San Joaquin	2.68
San Luis Obispo	2.57
San Mateo	2.68
Santa Barbara	2.58
Santa Clara	2.62
Santa Cruz	2.63

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Shasta	2.46
Sierra	2.47
Siskiyou	2.45
Solano	2.63
Sonoma	2.60
Stanislaus	2.65
Sutter	2.62
Tehama	2.52
Tulare	2.60
Tuolumne	2.61
Ventura	2.65
Yolo	2.63
Yuba	2.62
Weighted State average	2.61
Colorado	
Adams	2.32
Alamosa	2.29
Arapahoe	2.32
Archuleta	2.26
Baca	2.36
Bent	2.32
Boulder	2.31
Chaffee	2.29
Cheyenne	2.33
Conejos	2.29
Costilla	2.29
Crowley	2.32
Custer	2.31
Delta	2.23
Denver	2.32
Dolores	2.23
Douglas	2.32
Eagle	2.26
Elbert	2.32
El Paso	2.32
Fremont	2.31
Garfield	2.26
Grand	2.29
Huerfano	2.33
Jackson	2.29
Jefferson	2.31
Kiowa	2.33
Kit Carson	2.33
La Plata	2.23
Larimer	2.32
Las Animas	2.35
Lincoln	2.32
Logan	2.32
Mesa	2.23
Moffat	2.29
Montezuma	2.23
Montrose	2.23
Morgan	2.32
Otero	2.32
Ouray	2.23
Phillips	2.32
Pitkin	2.23
Prowers	2.34
Pueblo	2.32
Rio Blanco	2.26
Rio Grande	2.29
Routt	2.29
Saguache	2.29
San Miguel	2.23
Sedgwick	2.32
Summit	2.26
Teller	2.31
Washington	2.32
Weld	2.32
Yuma	2.33
Weighted State average	2.32
Connecticut	
All counties	2.44
Delaware	
All counties	2.47
Florida	
All counties	2.41
Georgia	
All counties	2.41
Idaho	
Ada	2.46
Adams	2.46
Bannock	2.44
Bear Lake	2.42

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Benewah	2.56
Bingham	2.42
Blaine	2.42
Boise	2.46
Bonner	2.49
Bonneville	2.41
Boundary	2.47
Butte	2.41
Camas	2.43
Canyon	2.46
Caribou	2.43
Cassia	2.45
Clark	2.39
Clearwater	2.55
Custer	2.41
Elmore	2.45
Franklin	2.45
Fremont	2.40
Gem	2.46
Gooding	2.46
Idaho	2.54
Jefferson	2.41
Jerome	2.46
Kootenai	2.54
Latah	2.57
Lemhi	2.41
Lewis	2.56
Lincoln	2.45
Madison	2.41
Minidoka	2.45
Nez Perce	2.59
Oneida	2.45
Owyhee	2.45
Payette	2.46
Power	2.45
Shoshone	2.55
Teton	2.40
Twin Falls	2.46
Valley	2.45
Washington	2.46
Weighted State average	2.47
Illinois	
Adams	2.45
Alexander	2.48
Bond	2.51
Boone	2.53
Brown	2.45
Bureau	2.51
Calhoun	2.52
Carroll	2.50
Cass	2.47
Champaign	2.51
Christian	2.49
Clark	2.47
Clay	2.47
Clinton	2.51
Coles	2.47
Cook	2.53
Crawford	2.46
Cumberland	2.47
De Kalb	2.53
De Witt	2.47
Douglas	2.48
Du Page	2.53
Edgar	2.49
Edwards	2.47
Effingham	2.49
Fayette	2.50
Ford	2.51
Franklin	2.51
Fulton	2.49
Gallatin	2.44
Greene	2.51
Grundy	2.53
Hamilton	2.45
Hancock	2.45
Hardin	2.44
Henderson	2.47
Henry	2.50
Iroquois	2.53
Jackson	2.50
Jasper	2.46
Jefferson	2.51
Jersey	2.52
Jo Daviess	2.50
Johnson	2.48
Kane	2.53
Kankakee	2.53
Kendall	2.53

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Knox	2.49
Lake	2.53
La Salle	2.53
Lawrence	2.46
Lee	2.52
Livingston	2.52
Logan	2.47
McDonough	2.47
McHenry	2.53
McLean	2.49
Macon	2.47
Macoupin	2.51
Madison	2.52
Marion	2.51
Marshall	2.50
Mason	2.45
Massac	2.47
Menard	2.45
Mercer	2.49
Monroe	2.52
Montgomery	2.51
Morgan	2.49
Moultrie	2.48
Ogle	2.51
Peoria	2.49
Perry	2.51
Piatt	2.47
Pike	2.46
Pope	2.45
Pulaski	2.48
Putman	2.50
Randolph	2.52
Richland	2.46
Rock Island	2.50
St. Clair	2.52
Saline	2.45
Sangamon	2.49
Schuyler	2.45
Scott	2.47
Shelby	2.49
Stark	2.49
Stephenson	2.52
Tazewell	2.47
Union	2.48
Vermilion	2.52
Wabash	2.46
Warren	2.49
Washington	2.51
Wayne	2.47
White	2.44
Whiteside	2.51
Will	2.53
Williamson	2.49
Winnebago	2.52
Woodford	2.49
Weighted State average	2.49
Indiana	
Adams	2.46
Allen	2.46
Bartholomew	2.46
Benton	2.51
Blackford	2.46
Boone	2.45
Brown	2.46
Carroll	2.49
Cass	2.49
Clark	2.51
Clay	2.47
Clinton	2.45
Crawford	2.51
Daviess	2.47
Dearborn	2.46
Decatur	2.46
De Kalb	2.46
Delaware	2.46
Dubois	2.48
Elkhart	2.48
Fayette	2.46
Floyd	2.51
Fountain	2.49
Franklin	2.46
Fulton	2.49
Gibson	2.46
Grant	2.45
Greene	2.47
Hamilton	2.46
Hancock	2.46
Harrison	2.51
Hendricks	2.45
Henry	2.46
Howard	2.45
Huntington	2.45
Jackson	2.47
Jasper	2.52
Jay	2.46
Jefferson	2.49
Jennings	2.47
Johnson	2.45
Knox	2.46
Kosciusko	2.49
Lagrange	2.45
Lake	2.53
La Porte	2.53
Lawrence	2.47
Madison	2.46
Marion	2.46
Marshall	2.49
Martin	2.47
Miami	2.45
Monroe	2.48
Montgomery	2.47
Morgan	2.45
Newton	2.52
Noble	2.48
Ohio	2.46
Orange	2.49
Owen	2.46
Parke	2.49
Perry	2.47
Pike	2.47
Porter	2.53
Posey	2.44
Pulaski	2.52
Putnam	2.45
Randolph	2.46
Ripley	2.46
Rush	2.46
St. Joseph	2.51
Scott	2.49
Shelby	2.48
Spencer	2.47
Starke	2.52
Steuben	2.46
Sullivan	2.47
Switzerland	2.47
Tippecanoe	2.48
Tipton	2.45
Union	2.46
Vanderburgh	2.46
Vermillion	2.49
Vigo	2.48
Wabash	2.45
Warren	2.51
Warrick	2.47
Washington	2.49
Wayne	2.46
Wells	2.46
White	2.51
Whitley	2.45
Weighted State average	2.47
Iowa	
Pottawattamie	2.56
All other counties	2.45
Weighted State average	2.45
Kansas	
Allen	2.51
Anderson	2.54
Atchison	2.56
Barber	2.40
Barton	2.40
Bourbon	2.52
Brown	2.54
Butler	2.44
Chase	2.47
Chautauqua	2.47
Cherokee	2.49
Cheyenne	2.33
Clark	2.37
Clay	2.45
Cloud	2.45
Coffey	2.52
Comanche	2.38
Cowley	2.44
Crawford	2.50
Decatur	2.37
Dickinson	2.44
Doniphan	2.54
Douglas	2.55
Edwards	2.40
Elk	2.47
Ellis	2.40
Ellsworth	2.43
Finney	2.37
Ford	2.38
Franklin	2.55
Geary	2.47
Gove	2.37
Graham	2.39
Grant	2.35
Gray	2.37
Greeley	2.33
Greenwood	2.47
Hamilton	2.34
Harper	2.42
Harvey	2.43
Haskell	2.36
Hodgeman	2.39
Jackson	2.53
Jefferson	2.55
Jewell	2.44
Johnson	2.56
Kearny	2.35
Kingman	2.43
Kiowa	2.40
Labette	2.49
Lane	2.37
Leavenworth	2.56
Lincoln	2.43
Linn	2.54
Logan	2.34
Lyon	2.49
McPherson	2.43
Marion	2.43
Marshall	2.49
Meade	2.37
Miami	2.55
Mitchell	2.43
Montgomery	2.49
Morris	2.47
Morton	2.36
Nemaha	2.51
Neosho	2.50
Ness	2.39
Norton	2.39
Osage	2.52
Osborne	2.43
Ottawa	2.44
Pawnee	2.40
Phillips	2.40
Pottawatomie	2.51
Pratt	2.40
Rawlins	2.35
Reno	2.43
Republic	2.45
Rice	2.43
Riley	2.49
Rooks	2.41
Rush	2.40
Russell	2.41
Saline	2.44
Scott	2.35
Sedgwick	2.43
Seward	2.36
Shawnee	2.53
Sheridan	2.37
Sherman	2.33
Smith	2.43
Stafford	2.40
Stanton	2.34
Stevens	2.36
Sumner	2.43
Thomas	2.35
Trego	2.39
Wabaunsee	2.50
Wallace	2.33
Washington	2.47
Wichita	2.34
Wilson	2.49
Woodson	2.50
Wyandotte	2.56
Weighted State average	2.41
Kentucky	
Jefferson	2.52
All other counties	2.44
Weighted State average	2.44

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Louisiana	
East Baton Rouge	2.62
Jefferson	2.62
Orleans	2.62
St. Charles	2.62
West Baton Rouge	2.62
All other counties	2.47
Weighted State average	2.47
Maine	
All counties	2.41
Maryland	
Baltimore	2.60
All other counties	2.47
Weighted State average	2.47
Massachusetts	
All counties	2.43
Michigan	
Alcona	2.36
Alger	2.37
Allegan	2.45
Alpena	2.33
Antrim	2.33
Arenac	2.37
Baraga	2.37
Barry	2.44
Bay	2.41
Benzie	2.36
Berrien	2.49
Branch	2.46
Calhoun	2.45
Cass	2.46
Charlevoix	2.32
Cheboygan	2.32
Chippewa	2.37
Clare	2.39
Clinton	2.42
Crawford	2.36
Delta	2.37
Dickinson	2.37
Eaton	2.44
Emmet	2.30
Genesee	2.44
Gladwin	2.39
Gogebic	2.37
Grand Traverse	2.36
Gratiot	2.42
Hillsdale	2.47
Houghton	2.37
Huron	2.43
Ingham	2.44
Ionia	2.42
Iosco	2.37
Iron	2.37
Isabella	2.41
Jackson	2.45
Kalamazoo	2.45
Kalkaska	2.36
Kent	2.42
Keweenaw	2.37
Lake	2.38
Lapeer	2.44
Leelanau	2.35
Lenawee	2.48
Livingston	2.45
Luce	2.37
Mackinac	2.37
Macomb	2.47
Manistee	2.37
Marquette	2.37
Mason	2.40
Mecosta	2.41
Menominee	2.37
Midland	2.41
Missaukee	2.36
Monroe	2.50
Montcalm	2.42
Montmorency	2.33
Muskegon	2.42
Newaygo	2.40
Oakland	2.47
Oceana	2.40
Ogemaw	2.37
Ontonagon	2.37
Osceola	2.38
Oscoda	2.36
Otsego	2.33
Ottawa	2.42
Presque Isle	2.32
Roscommon	2.36
Saginaw	2.44
St. Clair	2.47
St. Joseph	2.46
Sanilac	2.44
Schoolcraft	2.37
Shiawassee	2.44
Tuscola	2.44
Van Buren	2.45
Washtenaw	2.47
Wayne	2.47
Wexford	2.36
Weighted State average	2.44
Minnesota	
Aitkin	2.68
Anoka	2.68
Becker	2.58
Beltrami	2.61
Benton	2.67
Big Stone	2.59
Blue Earth	2.66
Brown	2.66
Carlton	2.68
Carver	2.68
Cass	2.64
Chippewa	2.62
Chisago	2.68
Clay	2.56
Clearwater	2.60
Cottonwood	2.63
Crow Wing	2.66
Dakota	2.68
Dodge	2.68
Douglas	2.63
Faribault	2.65
Fillmore	2.64
Freeborn	2.64
Goodhue	2.68
Grant	2.61
Hennepin	2.68
Houston	2.61
Hubbard	2.61
Isanti	2.68
Itasca	2.66
Jackson	2.62
Kanabec	2.67
Kandiyohi	2.66
Kittson	2.52
Koochiching	2.62
Lac Qui Parle	2.60
Lake of the Woods	2.56
Le Sueur	2.68
Lincoln	2.58
Lyon	2.61
McLeod	2.68
Mahnomen	2.58
Marshall	2.55
Martin	2.64
Meeker	2.68
Mille Lacs	2.67
Morrison	2.66
Mower	2.66
Murray	2.61
Nicollet	2.68
Nobles	2.60
Norman	2.56
Olmsted	2.66
Otter Tail	2.61
Pennington	2.57
Pine	2.67
Pipestone	2.58
Polk	2.57
Pope	2.64
Ramsey	2.68
Red Lake	2.57
Redwood	2.64
Renville	2.66
Rice	2.68
Rock	2.58
Roseau	2.53
St. Louis	2.68
Scott	2.68
Sherburne	2.68
Sibley	2.68
Stearns	2.66
Steele	2.66
Stevens	2.62
Swift	2.62
Todd	2.64
Traverse	2.58
Wabasha	2.67
Wadena	2.62
Waseca	2.67
Washington	2.68
Watonwan	2.65
Wilkin	2.58
Winona	2.65
Wright	2.68
Yellow Medicine	2.62
Weighted State average	2.59
Mississippi	
Harrison	2.62
Jackson	2.62
All other counties	2.43
Weighted State average	2.43
Missouri	
Adair	2.42
Andrew	2.54
Atchison	2.49
Audrain	2.47
Barry	2.44
Barton	2.48
Bates	2.52
Benton	2.48
Bollinger	2.47
Boone	2.44
Buchanan	2.56
Butler	2.46
Caldwell	2.53
Callaway	2.47
Camden	2.45
Cape Girardeau	2.48
Carroll	2.51
Carter	2.44
Cass	2.54
Cedar	2.47
Chariton	2.48
Christian	2.41
Clark	2.43
Clay	2.54
Clinton	2.54
Cole	2.45
Cooper	2.45
Crawford	2.47
Dade	2.46
Dallas	2.43
Daviess	2.51
De Kalb	2.53
Dent	2.45
Douglas	2.40
Dunklin	2.47
Franklin	2.51
Gasconade	2.49
Gentry	2.50
Greene	2.43
Grundy	2.48
Harrison	2.50
Henry	2.51
Hickory	2.48
Holt	2.52
Howard	2.47
Howell	2.38
Iron	2.47
Jackson	2.56
Jasper	2.47
Jefferson	2.50
Johnson	2.52
Knox	2.42
Laclede	2.42
Lafayette	2.54
Lawrence	2.44
Lewis	2.44
Lincoln	2.51
Linn	2.48
Livingston	2.50
McDonald	2.44
Macon	2.45
Madison	2.47
Maries	2.47
Marion	2.46
Mercer	2.47
Miller	2.44
Mississippi	2.49
Moniteau	2.45
Monroe	2.46

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Montgomery	2.49
Morgan	2.46
New Madrid	2.49
Newton	2.44
Nodaway	2.52
Oregon	2.42
Osage	2.46
Ozark	2.39
Perniscot	2.47
Perry	2.48
Pettis	2.48
Phelps	2.45
Pike	2.49
Platte	2.54
Polk	2.46
Pulaski	2.43
Putnam	2.44
Ralls	2.47
Randolph	2.45
Ray	2.54
Reynolds	2.45
Ripley	2.44
St. Charles	2.52
St. Clair	2.49
St. Francois	2.48
Ste. Genevieve	2.49
St. Louis	2.52
Saline	2.49
Schuyler	2.40
Scotland	2.40
Scott	2.49
Shannon	2.42
Shelby	2.45
Stoddard	2.48
Stone	2.44
Sullivan	2.45
Taney	2.41
Texas	2.41
Vernon	2.50
Warren	2.51
Washington	2.48
Wayne	2.46
Webster	2.42
Worth	2.50
Wright	2.42
Weighted State average	2.49
Montana	
Beaverhead	2.38
Big Horn	2.39
Blaine	2.40
Broadwater	2.44
Carbon	2.40
Carter	2.40
Cascade	2.43
Chouteau	2.43
Custer	2.39
Daniels	2.38
Dawson	2.40
Deer Lodge	2.45
Fallon	2.41
Fergus	2.42
Flathead	2.46
Gallatin	2.45
Garfield	2.38
Glacier	2.43
Golden Valley	2.42
Granite	2.45
Hill	2.41
Jeffeson	2.45
Judith Basin	2.42
Lake	2.45
Lewis and Clark	2.43
Liberty	2.42
Lincoln	2.46
McCone	2.39
Madison	2.45
Meagher	2.43
Mineral	2.45
Missoula	2.45
Musselshell	2.40
Park	2.44
Petroleum	2.40
Phillips	2.39
Pondera	2.43
Powder River	2.39
Powell	2.45
Prairie	2.40
Ravalli	2.43
Richland	2.40
Roosevelt	2.39
Rosebud	2.38
Sanders	2.45
Sheridan	2.39
Silver Bow	2.45
Stillwater	2.42
Sweet Grass	2.43
Teton	2.43
Toole	2.42
Treasure	2.39
Valley	2.38
Wheatland	2.43
Wibaux	2.41
Yellowstone	2.40
Weighted State average	2.41
Nebraska	
Adams	2.43
Antelope	2.51
Arthur	2.34
Banner	2.31
Blaine	2.41
Boone	2.51
Box Butte	2.31
Boyd	2.48
Brown	2.41
Buffalo	2.44
Burt	2.56
Butler	2.53
Cass	2.55
Cedar	2.52
Chase	2.33
Cherry	2.37
Cheyenne	2.31
Clay	2.44
Colfax	2.53
Cuming	2.55
Custer	2.41
Dakota	2.55
Dawes	2.31
Dawson	2.43
Deuel	2.32
Dixon	2.52
Dodge	2.55
Douglas	2.56
Dundy	2.33
Fillmore	2.46
Franklin	2.41
Frontier	2.36
Furnas	2.39
Gage	2.49
Garden	2.32
Garfield	2.45
Gosper	2.39
Grant	2.34
Greeley	2.47
Hall	2.45
Hamilton	2.47
Harlan	2.40
Hayes	2.35
Hitchcock	2.35
Holt	2.48
Hooker	2.35
Howard	2.45
Jefferson	2.48
Johnson	2.49
Kearney	2.41
Keith	2.34
Keya Paha	2.43
Kimball	2.31
Knox	2.51
Lancaster	2.52
Lincoln	2.38
Logan	2.38
Loup	2.41
McPherson	2.37
Madison	2.51
Merrick	2.48
Morrill	2.31
Nance	2.49
Nemaha	2.49
Nuckolls	2.43
Otoe	2.52
Pawnee	2.51
Perkins	2.33
Phelps	2.40
Pierce	2.51
Platte	2.51
Polk	2.50
Red Willow	2.36
Richardson	2.52
Rock	2.44
Saline	2.48
Sarpy	2.56
Saunders	2.55
Scotts Bluff	2.31
Seward	2.51
Sheridan	2.32
Sherman	2.44
Sioux	2.29
Stanton	2.53
Thayer	2.46
Thomas	2.38
Thurston	2.55
Valley	2.44
Washington	2.56
Wayne	2.52
Webster	2.43
Wheeler	2.47
York	2.48
Weighted State average	2.39
Nevada	
All counties	2.46
New Hampshire	
All counties	2.43
New Jersey	
All counties	2.47
New Mexico	
All counties	2.49
New York	
Albany	2.60
New York City	2.60
All other counties	2.45
Weighted State average	2.45
North Carolina	
All counties	2.41
North Dakota	
Adams	2.40
Barnes	2.53
Benson	2.46
Billings	2.39
Bottineau	2.40
Bowman	2.40
Burke	2.38
Burleigh	2.44
Cass	2.55
Cavalier	2.47
Dickey	2.53
Divide	2.37
Dunn	2.40
Kiddy	2.49
Emmons	2.47
Foster	2.50
Golden Valley	2.39
Grand Forks	2.54
Grant	2.42
Griggs	2.53
Hettinger	2.40
Kidder	2.47
La Moure	2.51
Logan	2.49
McHenry	2.41
McIntosh	2.49
McKenzie	2.38
McLean	2.40
Mercer	2.40
Morton	2.43
Mountrail	2.39
Nelson	2.52
Oliver	2.41
Pembina	2.51
Pierce	2.43
Ramsey	2.48
Ransom	2.56
Renville	2.40
Richland	2.57
Rolette	2.43
Sargent	2.56
Sheridan	2.43
Sioux	2.42
Slope	2.40
Stark	2.40
Steele	2.53

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Stutsman	2.51
Towner	2.44
Traill	2.54
Walsh	2.53
Ward	2.39
Wells	2.47
Williams	2.38
Weighted State average	2.46
Ohio	
Adams	2.47
Allen	2.48
Ashland	2.51
Ashtabula	2.53
Athens	2.50
Auglaize	2.47
Belmont	2.51
Brown	2.47
Butler	2.47
Carroll	2.51
Champaign	2.47
Clark	2.47
Clermont	2.47
Clinton	2.47
Columbiana	2.52
Coshocton	2.51
Crawford	2.50
Cuyahoga	2.51
Darke	2.47
Defiance	2.47
Delaware	2.50
Erie	2.50
Fairfield	2.50
Fayette	2.47
Franklin	2.50
Fulton	2.49
Gallia	2.47
Geauga	2.53
Greene	2.47
Guernsey	2.51
Hamilton	2.47
Hancock	2.50
Hardin	2.50
Harrison	2.51
Henry	2.49
Highland	2.47
Hocking	2.50
Holmes	2.51
Huron	2.50
Jackson	2.47
Jefferson	2.51
Knox	2.51
Lake	2.53
Lawrence	2.47
Licking	2.51
Logan	2.47
Lorain	2.51
Lucas	2.50
Madison	2.47
Mahoning	2.53
Marion	2.50
Medina	2.51
Meigs	2.47
Mercer	2.47
Miami	2.47
Monroe	2.51
Montgomery	2.47
Morgan	2.51
Morrow	2.51
Muskingum	2.51
Noble	2.51
Ottawa	2.50
Paulding	2.47
Perry	2.50
Pickaway	2.50
Pike	2.47
Portage	2.51
Preble	2.47
Putnam	2.49
Richland	2.51
Ross	2.50
Sandusky	2.50
Scioto	2.47
Seneca	2.50
Shelby	2.47
Stark	2.51
Summit	2.51
Trumbull	2.53
Tuscarawas	2.51
Union	2.50
Van Wert	2.47
Vinton	2.50
Warren	2.47
Washington	2.51
Wayne	2.51
Williams	2.47
Wood	2.50
Wyandot	2.50
Weighted State average	2.49
Oklahoma	
Adair	2.50
Alfalfa	2.47
Atoka	2.52
Beaver	2.42
Beckham	2.51
Blaine	2.51
Bryan	2.52
Caddo	2.52
Canadian	2.52
Carter	2.52
Cherokee	2.50
Choctaw	2.52
Cimarron	2.42
Cleveland	2.52
Coal	2.52
Comanche	2.52
Cotton	2.52
Craig	2.49
Creek	2.51
Custer	2.51
Delaware	2.50
Dewey	2.50
Ellis	2.45
Garfield	2.49
Garvin	2.52
Grady	2.52
Grant	2.47
Greer	2.52
Harmon	2.52
Harper	2.42
Haskell	2.52
Hughes	2.52
Jackson	2.52
Jefferson	2.52
Johnston	2.52
Kay	2.48
Kingfisher	2.51
Kiowa	2.52
Latimer	2.52
Le Flore	2.52
Lincoln	2.52
Logan	2.51
Love	2.52
McClain	2.52
McCurtain	2.52
McIntosh	2.52
Major	2.49
Marshall	2.52
Mayes	2.50
Murray	2.52
Muskogee	2.52
Noble	2.49
Nowata	2.49
Okfuskee	2.52
Oklahoma	2.52
Okmulgee	2.52
Osage	2.49
Ottawa	2.49
Pawnee	2.49
Payne	2.51
Pittsburg	2.52
Pontotoc	2.52
Pottawatomie	2.52
Pushmataha	2.52
Roger Mills	2.49
Rogers	2.50
Seminole	2.52
Sequoyah	2.52
Stephens	2.52
Texas	2.42
Tillman	2.52
Tulsa	2.50
Wagoner	2.50
Washington	2.49
Washita	2.51
Woods	2.47
Woodard	2.47
Weighted State average	2.49
Oregon	
Baker	2.56
Benton	2.63
Clackamas	2.70
Clatsop	2.77
Columbia	2.77
Coos	2.43
Crook	2.61
Curry	2.42
Deschutes	2.61
Douglas	2.47
Gilliam	2.66
Grant	2.61
Harney	2.47
Hood River	2.72
Jackson	2.47
Jefferson	2.64
Josephine	2.47
Klamath	2.55
Lake	2.52
Lane	2.61
Lincoln	2.53
Linn	2.64
Malheur	2.47
Marion	2.68
Morrow	2.64
Multnomah	2.77
Polk	2.66
Sherman	2.66
Tillamook	2.70
Umatilla	2.63
Union	2.59
Wallowa	2.57
Wasco	2.68
Washington	2.70
Wheeler	2.63
Yamhill	2.68
Weighted State average	2.64
Pennsylvania	
Philadelphia	2.60
All other counties	2.45
Weighted State average	2.45
Rhode Island	
All counties	2.44
South Carolina	
Charleston	2.60
All other counties	2.41
Weighted State average	2.41
South Dakota	
Auroa	2.53
Beadle	2.52
Bennett	2.40
Bon Homme	2.54
Brookings	2.56
Brown	2.52
Brule	2.50
Buffalo	2.50
Butte	2.38
Campbell	2.45
Charles Mix	2.50
Clark	2.52
Clay	2.56
Codington	2.56
Corson	2.42
Custer	2.32
Davison	2.56
Day	2.56
Deuel	2.59
Dewey	2.42
Douglas	2.52
Edmunds	2.49
Fall River	2.30
Faulk	2.51
Grant	2.59
Gregory	2.47
Haakon	2.45
Hamlin	2.55
Hand	2.52
Hanson	2.53
Harding	2.39
Hughes	2.48
Hutchinson	2.55
Hyde	2.50
Jackson	2.44
Jerauld	2.53
Jones	2.46

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Kingsbury	2.53
Lake	2.55
Lawrence	2.38
Lincoln	2.58
Lyman	2.47
McCook	2.56
McPherson	2.49
Marshall	2.56
Meade	2.39
Mellette	2.45
Miner	2.54
Minnehaha	2.57
Moody	2.57
Pennington	2.39
Perkins	2.39
Potter	2.47
Roberts	2.58
Sanborn	2.53
Shannon	2.37
Spink	2.52
Stanley	2.46
Sully	2.47
Todd	2.42
Tripp	2.45
Turner	2.57
Union	2.56
Walworth	2.47
Yankton	2.54
Ziebach	2.40
Weighted State average	2.49
Tennessee	
Shelby	2.53
All other counties	2.42
Weighted State average	2.42
Texas	
Anderson	2.64
Andrews	2.50
Archer	2.55
Armstrong	2.50
Atascosa	2.64
Bailey	2.50
Bandera	2.60
Bastrop	2.64
Baylor	2.54
Bee	2.72
Bell	2.64
Bexar	2.64
Blanco	2.62
Borden	2.50
Bosque	2.61
Bowie	2.57
Brazos	2.69
Briscoe	2.50
Brown	2.58
Burleson	2.69
Burnet	2.62
Caldwell	2.64
Calhoun	2.68
Callahan	2.54
Carson	2.50
Castro	2.50
Chambers	2.74
Cherokee	2.66
Childress	2.52
Clay	2.56
Cochran	2.50
Coke	2.51
Coleman	2.55
Collin	2.59
Collingsworth	2.50
Comal	2.64
Comanche	2.59
Concho	2.56
Cooke	2.57
Coryell	2.63
Cottle	2.50
Crockett	2.52
Crosby	2.50
Culberson	2.50
Dallam	2.47
Dallas	2.61
Dawson	2.50
Deaf Smith	2.50
Delta	2.60
Denton	2.59
De Witt	2.66
Dickens	2.50
Dimmit	2.58
Donley	2.50
Eastland	2.54
Edwards	2.54
Ellis	2.61
El Paso	2.50
Erath	2.59
Falls	2.63
Fannin	2.57
Fisher	2.51
Floyd	2.50
Foard	2.52
Frio	2.62
Gaines	2.50
Galveston	2.74
Garza	2.50
Gillespie	2.58
Glasscock	2.50
Goliad	2.68
Gonzales	2.66
Gray	2.50
Grayson	2.57
Grimes	2.69
Guadalupe	2.64
Hale	2.50
Hall	2.50
Hamilton	2.61
Hansford	2.47
Hardeman	2.52
Harris	2.74
Hartley	2.47
Haskell	2.52
Hays	2.64
Hemphill	2.47
Henderson	2.62
Hill	2.61
Hockley	2.50
Hood	2.58
Houston	2.66
Howard	2.50
Hudspeth	2.50
Hunt	2.60
Hutchinson	2.47
Irion	2.52
Jack	2.56
Jackson	2.64
Jeff Davis	2.50
Jefferson	2.70
Johnson	2.60
Jones	2.52
Karnes	2.68
Kaufman	2.62
Kendall	2.62
Kent	2.50
Kerr	2.58
Kimble	2.56
King	2.50
Kinney	2.54
Knox	2.52
Lamar	2.57
Lamb	2.50
Lampasas	2.63
Limestone	2.63
Lipscomb	2.47
Live Oak	2.70
Llano	2.60
Loving	2.50
Lubbock	2.50
Lynn	2.50
McCulloch	2.58
McLennan	2.63
Martin	2.50
Mason	2.58
Maverick	2.54
Medina	2.60
Menard	2.56
Midland	2.50
Milam	2.67
Mills	2.59
Mitchell	2.51
Montague	2.56
Moore	2.47
Motley	2.50
Navarro	2.62
Nolan	2.51
Nueces	2.74
Ochiltree	2.47
Oldham	2.50
Palo Pinto	2.56
Parker	2.58
Parmer	2.50
Pecos	2.50
Potter	2.50
Presidio	2.50
Randall	2.50
Real	2.56
Red River	2.57
Reeves	2.50
Refugio	2.71
Roberts	2.47
Robertson	2.66
Rockwall	2.60
Runnels	2.54
San Patricio	2.74
San Saba	2.59
Schleicher	2.52
Scurry	2.51
Shackelford	2.54
Sherman	2.47
Somervell	2.58
Stephens	2.55
Sterling	2.51
Stonewall	2.50
Sutton	2.52
Swisher	2.50
Tarrant	2.61
Taylor	2.52
Terry	2.50
Throckmorton	2.54
Tom Green	2.53
Travis	2.64
Uvalde	2.57
Van Zandt	2.62
Victoria	2.68
Waller	2.69
Ward	2.50
Wharton	2.69
Wheeler	2.50
Wichita	2.54
Wilbarger	2.54
Williamson	2.64
Wilson	2.66
Wise	2.57
Yoakum	2.50
Young	2.55
Zavala	2.58
Weighted State average	2.52
Utah	
All counties	2.46
Vermont	
All counties	2.43
Virginia	
Chesapeake (Norfolk)	2.60
All other counties	2.45
Weighted State average	2.45
Washington	
Adams	2.61
Asotin	2.60
Benton	2.63
Chelan	2.64
Clallan	2.56
Clark	2.77
Columbia	2.62
Cowlitz	2.77
Douglas	2.62
Ferry	2.54
Franklin	2.63
Garfield	2.62
Grant	2.62
Grays Harbor	2.69
Island	2.58
Jefferson	2.58
King	2.77
Kitsap	2.59
Kittitas	2.66
Klickitat	2.68
Lewis	2.72
Lincoln	2.59
Mason	2.66
Okanogan	2.59
Pacific	2.69

1979—Crop Wheat Loan and Purchase Rates—Continued

County	Rate per bushel
Pend Oreille	2.49
Pierce	2.77
San Juan	2.58
Skagit	2.66
Skamania	2.72
Snohomish	2.71
Spokane	2.58
Stevens	2.54
Thurston	2.71
Wahkiakum	2.71
Walla Walla	2.63
Whatcom	2.63
Whitman	2.61
Yakima	2.64
Weighted State average	2.61
West Virginia	
All counties	2.46
Wisconsin	
Douglas	2.63
All other counties	2.41
Weighted State average	2.41
Wyoming	
All counties	2.33

Since the 1979 crop of wheat has been harvested in the wheat producing areas and the provisions of this amendment are needed to carry out the loan program more effectively, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this amendment is issued as a final rule.

Signed at Washington, D.C. on August 12, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-25147 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1427

CCC Cotton Loan Program Regulations Governing 1980 and Subsequent Crops

Correction

In FR Doc. 80-24098, at page 53077, in the issue of Monday, August 11, 1980, on page 53078 in the first column, in the table, under the cities of Aliceville and Atmore, which are the second and third entries down respectively, correct the entries under "Loan Rate" from 46.95 to 48.95 for Aliceville and from 49.95 to 48.95 for Atmore and (2) on the same page in the last column, under the "city" of Yatesville, the nineteenth entry down, correct the "County" from "Vpson" to "Upson".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

15 CFR Part 200

Policies, Services, Procedures and Fees for Measurement Services; Revision

AGENCY: National Bureau of Standards, Department of Commerce.

ACTION: Final rule.

SUMMARY: Part 200 in Subchapter A of Chapter II, Title 15 of the Code of Federal Regulations was last published in its entirety on December 29, 1967. Since that time some of the information given in Part 200 has become outdated as a result, in part, of reorganizations within the National Bureau of Standards and because, among other changes, improvements, and corrections, there are now seven base units that serve as a practical base for an International System of Units as opposed to six at the time of the last publication. Therefore the entire part was reviewed and appropriate changes to update it were made. There have been no substantive changes to Part 200.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Allen J. Farrar, Office of the Legal Adviser, National Bureau of Standards, Washington, D.C. 20234, telephone (301) 921-2425.

SUPPLEMENTARY INFORMATION: Because the revision to Part 200 in Subchapter A of Chapter II, Title 15 of the Code of Federal Regulations does not contain any substantive changes and this part concerns general statements of policy and procedure, the revision is effective immediately. Accordingly Part 200 as revised is set out below.

Dated: August 13, 1980.

Ernest Ambler,

Director.

SUBCHAPTER A—MEASUREMENT SERVICES

PART 200—POLICIES, SERVICES, PROCEDURES, AND FEES

Sec.

200.100 Statutory functions.
200.101 Measurement research.
200.102 Types of calibration and test services.
200.103 Consulting and advisory services.
200.104 Standard reference materials.
200.105 Standard reference data.
200.106 Publications.
200.107 WWV-WWVH-WWVB Broadcasts.
200.108 Request procedure.
200.109 Shipping, insurance, and risk of loss.
200.110 Priorities and time of completion.
200.111 Witnessing of operations.
200.112 Reports.
200.113 Use of results or reports.
200.114 Fees and bills.
200.115 Description of services and list of fees, incorporation by reference.

Authority: Sec. 9, 31 Stat. 1450, as amended; 15 U.S.C. 277. Interprets or applies sec. 7, 31 Stat. 1450; 15 U.S.C. 275a.

§200.100 Statutory functions.

(a) The National Bureau of Standards (NBS) has been assigned the following functions (15 U.S.C. 271 et seq.):

(1) The custody, maintenance, and development of the national standards of measurement, and the provision of means and methods for making measurements consistent with those standards, including the comparison of standards used in scientific investigations, engineering, manufacturing, commerce, and educational institutions with the standards adopted or recognized by the Government.

(2) The determination of physical constants and properties of materials when such data are of great importance to scientific or manufacturing interests and are not to be obtained with sufficient accuracy elsewhere.

(3) The development of methods for testing materials, mechanisms, and structures, and the testing of materials, supplies, and equipment, including items purchased for use of Government departments and independent establishments.

(4) Cooperation with other governmental agencies and with private organizations in the establishment of standard practices, incorporated in codes and specifications.

(5) Advisory service to Government agencies on scientific and technical problems.

(6) Invention and development of devices to serve special needs of the Government.

(b) The calibration and testing activities of NBS stem from the functions in paragraphs (a) (1) and (3) of this section. NBS provides the central basis within the United States for a complete and consistent system of measurement; coordinates that system, and the measurement systems of other nations; and furnishes essential services leading to accurate and uniform physical measurements throughout this Nation's scientific community, industry, and commerce.

(c) The provision of standard reference materials for sale to the public is assigned to the Office of Standard Reference Materials of the National Measurement Laboratory, NBS. That Office evaluates the requirements of science and industry for carefully

characterized reference materials, stimulates efforts of NBS to develop methods for production of needed reference materials and directs their production and distribution. For further information on standard reference materials see Subchapter B, Chapter II, Part 230, of this Title 15.

§ 200.101 Measurement research.

(a) The NBS staff continually reviews the advances in science and the trends in technology, examines the measurement potentialities of newly discovered physical phenomena, and uses these to devise and improve standards, measuring devices, and measurement techniques. As new requirements appear, there are continual shifts of program emphasis to meet the most urgent needs for the measurement of additional quantities, extended ranges, or improved accuracies.

(b) The basic research and development activities of NBS are primarily funded by direct appropriations, and are aimed at meeting broad general needs. NBS may also undertake investigations or developments to meet some specialized physical measurement problem of another Government agency, industrial group, or manufacturing firm, using funds supplied by the requesting organization.

§ 200.102 Types of calibration and test services.

(a) NBS has developed instrumentation and techniques for realizing standards for the seven base units of the International System of Units, as agreed upon by the General Conference of Weights and Measures. Reference standards have been established not only for these seven base units, but also for many derived quantities and their multiples and submultiples. Such reference standards, or equivalent working standards, are used to calibrate laboratory and plant standards for other organizations. Accuracy is maintained by stability checks, by comparison with the standards of other national and international laboratories, and by the exploration of alternative techniques as a means of reducing possible systematic error.

(b) Calibrations for many types of intruments and ranges of physical quantities are described in the NBS Special Publication 250 (SP 250). (See § 200.115 for details relating to the description of service items and listing of fees.)

(c) In recent years NBS has offered to the public new measurement services called measurement assurance programs. These programs are designed for laboratories whose measurement process involves the calibration of other standards. A measurement assurance program is a measurement quality control process. By use of carefully designed redundant measurements and measurements made on NBS transport standards a total uncertainty of the laboratories measurement process can be determined by NBS. The results of these tests are then reported to the customer as uncertainties of the customer's measurements relative to national standards.

(d) Special measurements not listed in SP 250 may be made upon request. These might involve unusual physical quantities, upper or lower extremes of range, higher levels of accuracy, fast response speeds, short durations, broader ranges of associated parameters, or special environmental conditions. Such inquiries should describe clearly the measurement desired. Indication of the scientific or economic basis for the requirements to be satisfied will be helpful in determining future NBS programs. Fees for work accepted will be based upon actual costs incurred.

(e) The principal emphasis of NBS is on those calibrations and other tests requiring such accuracy as can be obtained only by direct comparison with its standards.

(f) Other services which may be obtained include:

(1) Tests of measuring instruments to determine compliance with specifications or claims, when the evaluation is critical in national scientific or technical operations, and when suitable facilities are not available elsewhere; and

(2) Referee tests in important cases when clients are unable to agree upon the method of measurement, the results of tests, or the interpretation of these results, but have agreed in advance in writing to accept and abide by the findings of NBS.

(g) NBS reserves the right to decline any request for services if the work would interfere with other activities deemed by the Director to be of greater importance. In general, measurement services are not provided when available from commercial laboratories.

(h) Suggestions will be offered on measurement techniques and on other sources of assistance on calibration or measurement problems when the equipment and personnel of NBS are unable to undertake the work. The National Conference of Standards Laboratories issues a Directory of Standards Laboratories in the United States which perform calibration work (obtainable from NCSL Secretariat, c/o National Bureau of Standards, Boulder, CO 80303). Those laboratories which perform testing are listed in the ASTM Directory of Testing Laboratories, Commercial and Institutional. (Directory available from the Amercian Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.) Similar listings appear in buyer's guides for commercial products and in technical journals concerned with physical measurement.

§ 200.103 Consulting and advisory services.

(a) In areas of its special competence, NBS offers consulting and advisory services on various problems related to measurement, e.g., details of design and construction, operational aspects, unusual or extreme conditions, methods of statistical control of the measurement process, automated acquisition of laboratory data, and data reduction and analysis by computer. Brief consultation may be obtained at no charge; the fee for extended effort will be based upon actual costs incurred. The services outlined in this paragraph do not include services in connection with legal proceedings not involving the United States as a named party, nor to testimony or the production of data, information, or records in such legal proceedings which is governed by the policies and procedures set forth in Subchapter H, Chapter II, Part 275, of this Title 15.

(b) To enhance the competence of standards laboratory personnel, NBS conducts at irregular intervals several group seminars on the precision measurement of specific types of physical quantities, offering the opportunity of laboratory observation and informal discussion. A brochure describing the current series of seminars can be obtained by writing the Office of Measurement Services, National Bureau of Standards, Washington, DC 20234.

§ 200.104 Standard reference materials.

Often the performance of a device or structure can be evaluated at the user's laboratory by comparing its response to unknown materials with its response to a stable, homogeneous reference specimen which has been well-characterized with regard to the physical or chemical property being measured. For information regarding carefully characterized materials see Subchapter B, Chapter II, Part 230, of this Title 15. The Office of Standard Reference Materials in the NBS National Measurement Laboratory administers a program to provide many types of well-characterized materials that are needed to calibrate a measurement system or to

produce scientific data that can be readily referred to a common base. NBS SP 260 is a catalog of Standard Reference Materials available from NBS.

§ 200.105 Standard reference data.

Data on the physical and chemical properties of the large variety of substances used in science and technology need to be compiled and evaluated for application in research, development, engineering design, and commerce. The Office of Standard Reference Data (OSRD) in the NBS National Measurement Laboratory provides coordination of and access to a number of governmental and nongovernmental data centers throughout this country and the world which are responsive to user needs for data. The OSRD's present program is assembled under a series of tasks which include data for application in energy, environment and health, industrial process design, materials durability, and resource recovery. The subject data are disseminated as hard-copy information in the Journal of Physical and Chemical Reference Data, published jointly with the American Chemical Society and the American Institute of Physics, in the National Standard Reference Data System reports as the NSRDS–NBS series, and as NBS special reports. Magnetic tapes of data on selected topics are also issued through the OSRD and the National Technical Information Service. A newsletter, "Reference Data Report," is issued bimonthly describing current activities. Information concerning the above is available upon request from the OSRD.

§ 200.106 Publications.

Publications provide the primary means of communicating the results of the NBS programs and services to its varied technical audiences, as well as to the general public. NBS issues some fifteen categories of publications including three periodicals, ten non-periodicals series, interagency reports, and papers in the journals and books of professional organizations, technological associations, and commercial publications. The calibration services, standard reference materials and related measurement services along with changes and fees are published in two Special Publications (SP's) and their supplements. These are SP 250 "Calibration and Related Measurement Services of the National Bureau of Standards" [1] and SP 260 "NBS Standard Reference Materials Catalog." [1] A complete catalog of all publications by NBS authors is issued annually as a supplement to SP 305 "Publications of the National Bureau of Standards." Announcements and listings of recent NBS publications and services are published in each issue of the bimonthly "NBS Journal of Research" [2] and the NBS monthly magazine, "Dimensions/NBS" [2]. Complete citations to NBS publications, along with information on availability are published bimonthly in the "NBS Publications Newsletter", available free from the Technical Information and Publications Division, National Bureau of Standards, Washington, DC 20234. NBS publications are also announced (with abstracts) in "Government Reports Announcements and Index" published every two weeks by the National Technical Information Service (NTIS), Springfield, Virginia 22161 [3]. NTIS also sells microfiche copies of all NBS GPO-published documents, as well as paper copy and microfiche versions of NBS Interagency Reports.

§ 200.107 WWV–WWVH–WWVB broadcasts.

(a) *Technical services.* The NBS radio stations WWV at Fort Collins, Colorado, and WWVH on the island of Kauai, Hawaii, broadcast a number of technical services continuously night and day. These services are: (1) Standard radio frequencies, 2.5, 5, 10, 15, and 20, MHz (WWV) and 2.5, 5, 10, and 15 MHz (WWVH); (2) standard time signals; (3) time intervals; (4) UTI corrections; (5) standard audio frequencies; (6) standard musical pitch; (7) a slow time code; (8) Omega Navigation System status reports; (9) geophysical alerts; and (10) marine storm warnings. NBS also broadcasts time and frequency signals from its low frequency station, WWVB, also located at Fort Collins, Colorado.

(b) *Time announcements.* Once per minute voice announcements are made from WWV and WWVH. The two stations are distinguished by a female voice from WWVH and a male voice from WWV. The WWVH announcement occurs first, at 15 seconds before the minute, while the WWV announcement occurs at 7½ seconds before the minute. Coordinated Universal Time (UTC) is used in these announcements.

(c) *Time corrections.* The UTC time scale operates on atomic frequency, but by means of step adjustments is made to approximate the astronomical UTI scale. It may disagree from UTI by as much as 0.9 second before step adjustments of exactly 1 second are made. These adjustments, or leap seconds are required about once per year and will usually be made on December 31 or June 30. For those who need astronomical time more accurately than 0.9 second, a correction to UTC is encoded by the use of double ticks after the start of each minute. The first through the eighth seconds ticks will indicate a "plus" correction, and from the ninth through the 16th a "minus" correction. The correction is determined by counting the number of double ticks. For example, if the first, second, and third ticks are doubled, the correction is "plus" 0.3 second. If the ninth, 10th, 11th, and 12th ticks are doubled, the correction is "minus" 0.4 second.

(d) *Standard time intervals.* An audio pulse (5 cycles of 1000 Hz on WWV and 6 cycles of 1200 Hz on WWVH), resembling the ticking of a clock, occurs each second of the minute except on the 29th and 59th seconds. Each of these 5-millisecond second pulses occur within a 40-millisecond period, wherein all other modulation (voice or tone) is removed from the carrier. These pulses begin 10 milliseconds after the modulation interruption. A long pulse (0.8 second) marks the beginning of each minute.

(e) *Standard frequencies.* All carrier and audio frequencies occur at their nominal values according to the International System of Units (SI). For periods of 45-second duration, either 500-Hz or 600-Hz audio tones are broadcast in alternate minutes during most of each hour. A 440-Hz tone, the musical pitch A above middle C, is broadcast once per hour near the beginning of the hour.

(f) *Accuracy and stability.* The time and frequency broadcasts are controlled by the NBS atomic frequency standards, which realize the internationally defined cesium resonance frequency with an accuracy of 1 part in 10^{13}. The frequencies transmitted by WWV and WWVH are held stable to better than ± 2 parts in 10^{11} at all times. Deviations at WWV are normally less than 1 part in 10^{12} from day to day. Incremental frequency adjustments not exceeding 1 part in 10^{12} are made at WWV and WWVH as necessary. Changes in the

[1] Single copies available free from the National Bureau of Standards, Washington, DC 20234.

[2] For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, for a subscription price. The annual subscription price for the NBS Journal of Research on the date of the publication of these regulations is $13.00 and for Dimensions/NBS it is $11.00. Prices, however, for these publications are subject to change without notice.

[3] The annual subscription rate at the date of the publication of these regulations for this service is $275.00, North American Continent, $375.00 all others.

*Copies of the Complaint and the Decision and Order filed with the original document.

[1] Single copies available free from the National Bureau of Standards, Washington, DC 20234.

propagation medium (causing Doppler effect, diurnal shifts, etc.) result in fluctuations in the carrier frequencies as received which may be very much greater than the uncertainties described above.

(g) *Slow time code.* A modified IRIG H time code occurs continuously on a 100-Hz subcarrier. The format is 1 pulse per second with a 1-minute time frame. It gives day of the year, hours, and minutes in binary coded decimal form.

(h) *Omega announcements.* Omega Navigation System status reports are broadcast in voice from WWV at 16 minutes after the hour and from WWVH at 47 minutes after the hour. The international Omega Navigation System is a very low frequency (VLF) radio navigation aid operating in the 10 to 14 kHz frequency band. Eight stations are in operation around the world. Omega, like other radio navigation systems, is subject to signal degradation caused by ionospheric disturbances at high latitudes. The Omega announcements on WWV and WWVH are given to provide users with immediate notification of such events and other information on the status of the Omega system.

(i) *Geophysical alerts.* These occur in voice at the 18th minute of each hour from WWV. They point out outstanding events which are in process, followed by a summary of selected solar and geophysical events in the past 24 hours and a forecast for the next 24 hours. They are provided by the Space Environment Laboratory, National Oceanic and Atmospheric Administration, Boulder, CO 80303.

(j) *Marine storm information.* Weather information about major storms in the Atlantic and eastern North Pacific are broadcast in voice from WWV at 8, 9, and 10 minutes after each hour. Similar storm warnings covering the eastern and central North Pacific are given from WWVH at 48, 49, and 50 minutes after each hour. An additional segment (at 11 minutes after the hour on WWV and at 51 minutes on WWVH) may be used when there are unusually widespread storm conditions. The brief messages are designed to tell mariners of storm threats in their areas. If there are no warnings in the designated areas, the broadcasts will so indicate. The ocean areas involved are those for which the U.S. has warning responsibility under international agreement. The regular times of issue by the National Weather Service are 0500, 1100, 1700, and 2300 UTC for WWV and 0000, 0600, 1200, and 1800 UTC for WWVH. These broadcasts are updated effective with the next scheduled announcement following the time of issue.

(k) *"Silent" periods.* These are periods with no tone modulation during which the carrier, seconds ticks, minute time announcements, and 100 Hz modified IRIG H time code continue. They occur during the 16th through the 20th minute on WWVH and the 46th through the 51st minute on WWV.

(l) *WWVB.* This station (antenna coordinates 40°40'28.3" N., 105°02'39.5" W.; radiated power 12 kw.) broadcasts on 60 kHz. Its time scale is the same as for WWV and WWVH, and its frequency accuracy and stability are the same. Its entire format consists of a 1 pulse per second special binary time code giving minutes, hours, days, and the correction between its UTC time scale and UTI astronomical time. Identification of WWVB is made by its unique time code and a 45° carrier phase shift which occurs for the period between 10 minutes and 15 minutes after each hour. The useful coverage area of WWVB is within the continental United States. Propagation fluctuations are much less with WWVB than with high-frequency reception, permitting frequency comparisons to be made to a few parts in 10^{11} per day.

(m) *Special Publication 432.* This publication describes in detail the standard frequency and time service of NBS. Single copies may be obtained at no charge upon request from the National Bureau of Standards, Time & Frequency Services Group, 524.06, Boulder, CO 80303. Quantities may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, at a nominal charge per copy.

§ 200.108 Request procedure.

(a) A formal purchase order for the calibration or test should be sent before or at the time the instrument or standard is shipped. The purchase order should provide clear identification of the apparatus being submitted, and give separate instructions for return shipment, mailing of report, and billing. If a customer wishes to minimize the time during which the equipment is out of service, the customer can usually arrange to be notified of the scheduled test date to allow timely shipment. (See § 200.110.) Requests from Federal agencies, or from State agencies, for calibrations or tests on material to be used on private or Federal contract work should be accompanied either by purchase order or by letter or document authorizing the cost of the work to be billed to the agency.

(b) The submission of a purchase order for measurement services under this subchapter shall be understood as constituting an agreement on the part of the customer to be bound by the restrictions on the use of results as set forth in section 200.113 below. Acceptance of purchase orders does not imply acceptance of any provisions set forth in the order contrary to the policy, practice, or regulations of NBS or the U.S. Government. (A statement to the effect that NBS is an agency of the U.S. Government should satisfy other Government agencies with regard to compliance with Government regulations and Executive orders.)

(c) A test number will be assigned by NBS to each instrument or group of similar instruments or standards when the order is accepted. This test number should be referred to in all subsequent communications. Also, each instrument in a group must be uniquely identified, usually by the manufacturer's name and instrument serial number. When the serial number is lacking, an alternative identifying mark should be provided. If none is found, NBS will mark the piece with an NBS identification number. If the apparatus submitted has been previously calibrated by NBS, the serial number or identifying mark should be given on the new order, so that a continuing record of stability history can be established.

(d) Inquires for measurement services should be directed to the NBS address listed in the various sections of the Appendix to SP 250.

§ 200.109 Shipping, insurance, and risk of loss.

(a) Shipment of apparatus to NBS for calibration or other test should be made only after the customer has accepted the estimate of cost and the tentative scheduling. Repairs and adjustments on apparatus submitted should be attended to by the owner, since NBS will not undertake them except by special arrangement. Apparatus not in good condition will not be calibrated. If defects are found after calibration has begun, the effort may be terminated, a report issued summarizing such information as has been found, and a fee charged in accordance with the amount of work done.

(b) The customer should pack apparatus sent to NBS so as to minimize the likelihood of damage in shipment and handling. Suggestions on packing and shipping are made in some sections of SP 250. In every case, the sender should consider the nature of the apparatus, pack it accordingly, and clearly label shipments containing fragile instruments or materials, such as glass and the like.

(c) To minimize damage during shipment resulting from inadequate packing, the use of strong reusable

containers is recommended. As an aid in preventing loss of such containers, the customer's name should be legibly and permanently marked on the outside. In order to prolong the container's use the notation "REUSABLE CONTAINER, DO NOT DESTROY" should be marked on the outside.

(d) Shipping and insurance coverage instructions should be clearly and legibly shown on the purchase order for the calibration or test. The customer must pay shipping charges to and from NBS; shipments from NBS will be made collect. The method of return transportation should be stated, and it is recommeded that return shipments be insured, since NBS will not assume liability for their loss or damage. For long-distance shipping it is found that air express and air freight provide an advantage in reduction of time in transit. If return shipment by parcel post is requested or is a suitable mode of transportation, shipments will be prepaid by NBS, but without covering insurance. When no shipping or insurance instructions are furnished, return shipment will be made by common carrier collect, but uninsured.

(e) NBS will not be responsible for the risk of loss or damage to any item during shipment to or from NBS. Any arrangements for insurance covering this risk must be made by the customer. Return shipment will be made by NBS as indicated in paragraph (d) of this section. The purchase order should always show the value of the equipment, and if transit insurance is carried by the customer, this fact should be stated.

(f) The risk of loss or damage in handling or testing of any item by NBS must be assumed by the customer, except when it is determined by NBS that such loss or damage was occasioned solely by the negligence of NBS personnel.

(g) When a test number has been assigned prior to shipment to NBS, this number should be clearly marked on the shipping container. When a test number has not been assigned, an invoice, copy of the purchase order, or letter should be enclosed in the shipment to insure proper identification. The origninal purchase order should be forwarded as appropriate to:

Office of Measurement Services, National Bureau of Standards, Washington, DC 20234; or to Measurement Services Clerk, National Bureau of Standards, Boulder, CO 80303.

(h) The calibrations listed in SP 250 are performed at Boulder, Colorado and Gaithersburg, Maryland.

§ 200.110 Priorities and time of completion.

Schedule work assignments for calibrations and other tests will generally be made in the order in which confirmed requests are received. However, Government work may be given priority. On the regular services, the workload is usually such that the turn-around interval, between the date a customer's apparatus is received and the date it is prepared for return shipment, will be not more than 45 days. Some types of instruments may require considerably longer, particularly if their abnormal behavior requires reruns to check reliability. The customer who can spare the instrument for only a short time can usually arrange by letter or telephone call for shipping it to NBS just as the assigned starting date approaches. A notice will be sent acknowledging receipt of the customer's standard and/or purchase order. If both a confirmed purchase order (or equivalent) and the apparatus have been received, estimates of the completion date and the calibration fee will be sent upon request.

§ 200.111 Witnessing of operations.

NBS welcomes scientists and engineers who may wish to visit its laboratories and discuss its methods. Ordinarily visitors will not be permitted to witness the actual carrying out of highly precise measurements because their presence introduces distraction that may lead to errors or delays. This policy may be waived in those cases where NBS determines that the visitor can be of service in setting up apparatus of a new or unusual nature, in the case of referee tests, or in other cases in which the legal validity of the result may require the presence of duly authorized witnesses.

§ 200.112 Reports.

(a) Results of calibrations and other tests are issued to the customer as formal reports entitled, "National Bureau of Standards Report of Calibration," "National Bureau of Standards Report of Test," or "National Bureau of Standards Report of Analysis," as appropriate. Copies are not supplied to other parties except under applicable Federal law. Whenever formal certification is required by law, or to meet special conditions adjudged by NBS to warrant it, a letter will be provided certifying that the particular item was received and calibrated or tested, and identifying the report containing the results.

(b) NBS reports of calibration generally include in sentence form a statement of the uncertainty attached to the numerical values reported. Limits of uncertainty usually comprise an estimate of systematic error plus a value of imprecision. Details on how these estimates are arrived at are in many cases included in the calibration report. Additional information may be found in SP 250.

(c) The NBS practice is to express data given in calibration or test reports in the SI or International System of Units. The International System of Units (SI) was defined and given official status by the 11th General Conference of Weights and Measures, 1960. A complete listing of SI units is presented in detail in NBS SP 330. The NBS will express data in SI units unless this makes communication excessively complicated. For example, commercial gage designations, commonly used items identified by nominal dimensions, or other commercial nomenclatures or devices (such as drill sizes, or commercial standards for weights and measures) expressed in customary units are an exception from this practice. However, even in such instances, when practical and meaningful, SI and customary units may be given in parallel. Users of NBS calibration services may specify the units to be used in the calibration, especially for commercial devices and standards using customary units or units having some legal definition.

§ 200.113 Use of results or reports.

(a) As the national standards laboratory of the United States, NBS maintains and establishes the primary standards from which measurements in science and industry ultimately derive. It is therefore sometimes desirable for manufacturers or users of measurement standards to make appropriate reference to the relationship of their calibrations to NBS calibrations. The following considerations must be borne in mind, and shall be understood as constituting an agreement on the part of the NBS customer to be bound thereby in making reference to NBS calibration and test reports.

(b) The results of calibrations and tests performed by NBS are intended solely for the use of the organization requesting them, and apply only to a particular device or specimen at the time of its test. The results shall not be used to indicate or imply that they are applicable to other similar items. In addition, such results must not be used to indicate or imply that NBS approves, recommends, or endorses the manufacturer, the supplier, or the user of such devices or specimens, or that NBS in any way "guarantees" the later

performance of items after calibration or test.

(c) NBS declares it to be in the national interest that it maintain an impartial position with respect to any commercial product. Advertising the findings on a single instrument could be misinterpreted as an indication of performance of other instruments of identical or similar type. There will be no objection, however, to a statement that the manufacturer's primary standards have been periodically calibrated by NBS, if this is actually the case, or that the customer might arrange to have NBS calibrate the item purchased from the manufacturer.

(d) NBS does not approve, recommend, or endorse any proprietary product or proprietary material. No reference shall be made to NBS, or to reports or results furnished by NBS in any advertising or sales promotion which would indicate or imply that NBS approves, recommends, or endorses any proprietary product or proprietary material, or which has as its purpose an intent to cause directly or indirectly the advertised product to be used or purchased because of NBS test reports or results.

In its own activities as a scientific institution, NBS uses many different materials, products, types of equipment, and services. This use does not imply that NBS has given them a preferential position or a formal endorsement. Therefore, NBS discourages references, either in advertising or in the scientific literature, which identify it as a user of any proprietary product, material, or service. Occasionally, effective communication of results by NBS to the scientific community requires that a proprietary instrument, product, or material be identified in an NBS publication. Reference in an NBS publication, report, or other document to a proprietary item does not constitute endorsement or approval of that item and such reference should not be used in any way apart from the context of the NBS publication, report, or document without the advance express written consent of NBS.

§ 200.114 Fees and bills.

(a) In accordance with 15 U.S.C. 271 et seq., fees are charged for all measurement services performed by NBS, unless waived by the Director, or the Director's designee, when deemed to be in the interest of the Government. The above-mentioned statutes authorize the issuance from time to time of appropriate regulations regarding the payment of fees, the limits of tolerance on standards submitted for verification, and related matters.

(b) The minimum fee for any service request accepted by NBS is $10, unless otherwise indicated in SP 250. If apparatus is returned without testing, a minimum charge of $10 may be made to cover handling. Charges commensurate with the work performed will be assessed for calibrations which cannot be completed because of faulty operation of the customer's device. Fees for calibrations or tests include the cost of preparation of an NBS report. Remittances should be made payable to the National Bureau of Standards.

§ 200.115 Description of services and list of fees, incorporation by reference.

(a) NBS Special Publication 250, "Calibration and Related Measurement Services of the National Bureau of Standards" is hereby incorporated by reference, pursuant to 5 U.S.C. 552(a)(1) and 1 CFR Part 51. SP 250 states the authority under which NBS performs various types of measurement services including calibrations and tests and charges fees therefor, states the general conditions under which the public may secure such services, decribes these services in considerable detail, and lists the fees to be charged, and sets out the instructions for requesting them in an appendix which is reviewed, revised and reissued semi-annually (December and June). The Director, Office of the Federal Register, approved the incorporation by reference on December 28, 1967.

(b) SP 250 is available at the following places:

(1) Superintendent of Documents, Government Printing Office, Washington, DC 20402.

(2) Technical Information and Publications Division, National Bureau of Standards, Washington, DC 20234.

(3) District Offices of the U.S. Department of Commerce.

(4) Federal Depository Libraries.

(c) Revisions of SP 250 will be issued from time to time by the National Bureau of Standards, Washington, DC 20234.

(d) Further information concerning policies, procedures, services, and fees may be obtained by writing the Office of Measurement Services, National Bureau of Standards, Washington, DC 20234.

[FR Doc. 80-25108 Filed 8-18-80; 8:45 am]

BILLING CODE 3510-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3031]

Terrance D. Lesko, M.D.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a medical doctor affiliated with two California firms engaged in the sale of hair replacement services, to cease soliciting, selling or performing hair implants; or misrepresenting, in advertising or otherwise, the safety or effectiveness of the hair implant process in the treatment of baldness. Should Dr. Lesko engage in any hair replacement business during period specified in the order, he must expend at least $8,000 on corrective advertising warning consumers that "Hair Implants Are Unsafe." The order also requires that the respondent notify past hair implant customers that the process is unsafe and that they should seek prompt medical attention.

DATES: Complaint and order issued July 28, 1980.*

FOR FURTHER INFORMATION CONTACT: Robert J. Enders, Director, 7R, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, Calif. 90024. (213) 824-7575.

SUPPLEMENTARY INFORMATION: On Wednesday, April 2, 1980, there was published in the **Federal Register**, 45 FR 21649, a proposed consent agreement with analysis In the Matter of Terrance D. Lesko, M.D., an individual, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart-Advertising Falsely or Misleadingly: § 13.90 History of product or offering; § 13.170 Qualities or properties of product or service; § 13.190 Results; § 13.195 Safety; § 13.195-60 Product; § 13.205 Scientific or other relevant facts. Subpart-Corrective Actions And/Or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-10 Corrective advertising; § 13.533-20 Disclosures; § 13.533-40 Furnishing information to media. Subpart-Disseminating Advertisements, Etc.:

*Copies of the Complaint and the Decision and Order filed with the original document.

§ 13.1043 Disseminating advertisements, etc. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1650 History of product; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1854 History of products; § 13.1885 Qualities or properties; § 13.1890 Safety; § 13.1895 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.)

James A. Tobin,

Acting Secretary.

[FR Doc. 80-25201 Filed 8-18-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 740

[Docket No. 76N-0486]

Cosmetic Product Warning Statements Bubble Bath Products Label Warning

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is requiring a caution statement on labels of cosmetic bubble bath products. This action is based on the proposed rule on this matter. The statement cautions consumers against product misuse, identifies some of the adverse reactions that may occur, and urges discontinuance of use and consultation with a physician should injury occur.

EFFECTIVE DATE: All affected products initially introduced or initially delivered for introduction into interstate commerce on or after August 19, 1981, shall comply with this regulation.

FOR FURTHER INFORMATION CONTACT: Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1530.

SUPPLEMENTARY INFORMATION: The caution statement required by this rule was proposed in the **Federal Register** of January 28, 1977 (42 FR 5368). The proposal also defined the products required to bear the caution statement and recommended additional statements on powder products and products intended for use by children. On request of one of the comments, namely, the Cosmetic, Toiletry and Fragrance Association, Inc., a trade association representing cosmetic manufacturers and distributors, the period for filing comments on the proposed regulation was extended from March 29, 1977 to April 29, 1977. The notice of extension of time for filing comments was published in the **Federal Register** of March 25, 1977 (42 FR 16159).

Eighty-two comments were received during the comment period in response to the proposed regulation. Most comments were from consumers; some came from physicians; several came from manufacturers and distributors of cosmetics; one came from a cosmetic trade organization; and one came from a Federal agency's office of consumer affairs. Three comments were received after the comment period had expired.

Sixty-five comments fully supported the proposed caution statement; two supported it but requested exemptions or modifications; and five opposed it. Ten comments neither supported nor opposed the proposal; some of these comments recommended a ban on bubble bath products. The three comments received after expiration of the extended comment period supported without qualification the proposed caution statement.

Substantiation of Need for Label Warning on Bubble Bath Products

1. Among the comments supporting the caution were comments from five physicians. They told of bubble bath preparations causing many cases of urinary tract infection in children. Some said children had undergone unnecessary, expensive urological evaluations for cystitis, only to have their symptoms abate when they stopped using the bubble bath product. In light of these adverse experiences, the commenting physicians emphasized the need for the proposed caution statement on bubble bath product labels. In contrast to these comments, one physician consulted by a trade association said he had never encountered a patient with a urinary tract infection that could be directly related to the use of bubble bath products.

The five comments support the agency's finding, as discussed in the **Federal Register** of January 28, 1977, that bubble bath products can cause adverse reactions, particularly when misused, as when consumers use excessive amounts of bubble bath, take bubble baths too frequently, or remain in the bath for a long period of time, thereby subjecting themselves to prolonged exposures to a product.

2. Three comments argued that a label warning was not justified because the adverse reaction reports were anecdotal and a causal relationship between bubble bath products and urinary tract irritation could not be established.

The causal relationship between bath products and urinary tract irritation is supported by the comments from physicians stating that no therapy was required other than discontinuance of the use of bubble bath products. Similar observations were reported by users of these products and parents of children experiencing adverse reactions.

Additional support for the agency's conclusion that bubble bath products can cause harm is provided by the reports in the medical literature of urogenital disorders associated with bubble baths as cited in the proposed regulation published in the **Federal Register** of January 28, 1977. Besides discussing the seriousness of harm inflicted to the users of bubble baths, all reports reported withdrawal of the offending product as the essence of treatment.

3. Four comments said the number of injury complaints cited by the agency in support of the proposed regulation was not high enough to demonstrate a serious hazard of widespread public concern warranting the requirement of a label warning.

FDA rejects this argument. Considering the small number of all cosmetic injury complaints FDA receives annually from consumers, the annual number of complaints of adverse reactions from the use of bubble bath products has been sufficiently large enough to indicate a public hazard. Physicians or cosmetic manufacturers or distributors are not legally required to submit reports on cosmetic-related injuries that are brought to their attention by consumers. Accordingly, even a small number of reports of consumer injuries associated with a particular brand or category of products assumes significance.

Two events support the agency's conclusion that bubble bath products present a public health hazard. First, the number of consumer reports of adverse reactions related to bubble bath products was significantly higher in 1973 than the number for prior and subsequent years. This was because of a press and radio solicitation by the Federal Trade Commission (FTC) in the Cleveland, Ohio, area. Forty-four percent of the bubble bath product complaints for the January 1, 1972 to July 18, 1973 period were received by FTC's Cleveland, Ohio, district office. This demonstrates that any organized effort to obtain adverse reaction information, no matter how limited in scope, uncovers many cases of injury that normally go unreported. If the number of

adverse reactions reported in the Cleveland, Ohio, area could be extrapolated statistically to reflect the entire country, the total number of adverse reactions would certainly confirm a hazard of widespread concern.

The second event supporting the Commissioner's conclusion that bubble bath products may be hazardous occurred in response to the publication of the proposed label warning in the **Federal Register** of January 28, 1977. Many consumers reported injuries associated with the use of bubble bath products that might not have been reported otherwise. These comments reported either personal adverse experiences or experiences observed on their children. In addition, the agency received the comments from physicians treating such cases, and there were several comments from nurses observing such effects at hospitals or medical practices.

The agency rejects the argument that the tabulations for the years 1974 and 1975 of cosmetic adverse reactions submitted to the FDA under the program of voluntary filing of cosmetic product experiences (21 CFR Part 730) contradict the need for a label warning. These data are deficient and underrated for several reasons. First, only a limited number of firms have been participating in the voluntary program, and the principal marketers of bubble bath products have not been filing consumer complaints of adverse reactions associated with these products. Second, an investigation of the voluntarily-filed bubble bath products in terms of formulations revealed that a significant number of these products were reported incorrectly in product categories under § 720.4(c)(2) (i) and (iv) (21 CFR 720.4(c)(2) (i) and (iv)), "Bath oils, tablets and salts" and "Other bath preparations," apparently because they are marketed as foaming bath oils. However, foaming bath oil formulations do not differ significantly, if at all, from bubble bath formulations. The adverse reaction rates under § 720.4(c)(2)(i) for 1974 and 1975 were significantly higher than those under § 720.4(c)(2)(ii), i.e., "Bubble baths," and exceeded also in each year the cumulative rate reflecting all cosmetic categories. Third, it is known that consumers report only a small portion of the experienced adverse reactions to cosmetic manufacturers.

The following comparison of adverse reactions data brings to light this reporting deficiency. During 1974, the 123 firms participating in the voluntary program received 27 adverse reaction reports under § 720.4(c)(2)(ii), 94 under § 720.4(c)(2)(i), and 29 under § 720.4(c)(2)(iv). Some of the adverse reactions reported under § 720.4(c)(2) (i) and (iv) relate to bubble bath products. During the same year, FDA received 25 consumer complaints relating to bubble bath products. These data relate to the entire population, whereas the industry data reflect only a portion of the market. In contrast to these figures, the survey group of approximately 30,000 persons participating in a consumer survey of adverse reactions associated with cosmetics reported for a period of only 3 months a total of 24 adverse reactions associated with bubble bath products. Further, this reporting period covered the months of September, October, and November, and not the winter months when indoor air is dry and the reaction rate is expected to be high. For those reasons, the agency concludes that the adverse reaction data for bubble bath products do not contradict but support the need for a label warning.

4. Three comments argued that the label warning was not justified because the annual numbers of adverse reactions reported by consumers to FDA had been decreasing after 1973. Two comments contended that the rate of adverse reactions per million units of bubble bath products distributed annually, as reported by the cosmetics industry to FDA under the program of voluntary filing of adverse reactions (21 CFR Part 730), had declined between 1974 and 1975.

The agency acknowledges a decline in the annual number of reports of adverse reactions associated with bubble bath products received from consumers after 1973. FDA disagrees, however, with the contention that this decrease negates the need for the proposed label warning. As discussed in the preamble of the proposed regulation and restated in the preceding section of this preamble, the number of consumer reports of adverse reactions related to bubble bath products was higher in 1973 than in subsequent years because of the press and radio solicitation by the Federal Trade Commission in the Cleveland, Ohio, area. The voluntary placement of caution statements on the label of the leading children's bubble bath product in 1974 also may have contributed to the decline in consumer complaints. Without evidence to the contrary, it seems logical to the agency to assume from these facts that a label warning promotes the safe use of bubble bath products and should therefore be required.

The decline in the rate of adverse reactions per million units of bubble bath products distributed annually, as reported under 21 CFR Part 730, from 1.74 in 1974 to 1.32 in 1975 was not of sufficient magnitude to be considered significant. The decrease in the rate occurred because of an increase in the estimate of the number of units distributed, i.e., from 15.5 million units in 1974 to 22.87 million units in 1975. The total number of adverse reaction reports under § 720.4(c)(2)(ii) i.e., "Bubble baths," actually increased from 27 in 1974 to 30 in 1975.

5. One comment argued that, because the referenced complaints related principally to one product, a warning should not be required for the entire industry.

The agency is not persuaded that the available complaint data relate to only one product and do not support a label warning on all bubble bath products. Although many of the complaints received by FDA related to the leading bubble bath product for children, they represented little more than half the total number of complaints and were proportionate to the product's estimated share of the market. Additionally, all of the adverse reactions voluntarily reported by the cosmetic industry in accordance with 21 CFR Part 730 were associated with products other than the leading bubble bath for children. There is also the technical consideration that all bubble bath products, including those labeled foaming bath oils, contain as principal ingredients surface-active agents serving as cleansing and foaming agents as well as foam stabilizers or boosters whose adverse effects on the skin were fully discussed in the preamble of the proposed regulation (42 FR 5368). Accordingly, all bubble bath products may be equally hazardous and in need of a label warning.

6. One comment said no scientifically controlled study using human subjects was included in the administrative record in support of the proposed label warning. Another comment argued that an animal study conducted for the FDA under contract suggested that bubble baths have a low potential for causing adverse reactions.

FDA advises that the human experience information received from consumers, physicians, and the industry fully supports the conclusion that the proposed label warning on bubble bath products is needed to reduce the risk of future harm. The agency opposes for ethical reasons any consideration of a controlled study in humans to determine the potential of bubble bath products to cause urinary tract infection.

In recognition of the health hazard associated with bubble bath products, the agency contracted in 1975 for a program of animal studies to determine the relative adverse reaction potential of

bubble bath products and ingredients. The studies were not intended to prove the existence of a hazard to humans associated with the use of bubble bath products. The existence of the human hazard had already been established. The objectives of these studies were to develop animal testing procedures that would produce in the chosen animal species the skin irritation effects and genito-urinary tract infections observed in humans and to investigate thereafter various bubble bath products and ingredients in accordance with these testing procedures. The results of such tests were expected to demonstrate the adverse effects that may occur in humans and permit a comparative ranking of the tested substances.

As was pointed out by one comment, the results reported in the first four quarterly reports referenced in the comment showed no significant adverse effects under the conditions of the experimental testing procedure. However, it was erroneous for the comment to conclude from these results that bubble bath products have a low potential for causing adverse reactions. The negative results meant that the testing protocol was deficient in that it did not reproduce in the test animals the reactions observed in humans. The investigator recognized this deficiency and modified the procedure accordingly. In the fifth quarterly report, it was stated that the new protocol appeared to be a more effective and definitive procedure than the tests previously used for evaluating the irritant or toxic effects of the bubble bath ingredients.

To determine the precise testing conditions for reproduction of adverse reactions, toxicologists prefer to gradually intensify the exposure conditions in a test series. Once the desired reactions are achieved and the testing conditions established, subsequent testing in accordance with the established procedure permits the determination of the relative adverse reaction potential of the tested substances. It should be noted, however, that the study was terminated for contractual reasons before the reported data assumed significance.

Definition

7. Several comments took issue with the proposed definition of the term "bubble bath product." It was argued that the definition was too broad because it would include foaming bath oils, bath oils and emulsions serving as emollients, and cleansers for infant care intended to be applied to the skin, wash cloth, or bath. One comment requested that cosmetics that are also drugs and serve either as medicated bath oils that may include cleansing agents or as medicated bath products for persons who may be affected adversely by soap be exempted from the warning requirements.

The agency recognizes that the proposed definition of the term "bubble bath product" may have been too broad and could have been interpreted to include products for which foaming is not one of the principal functions or performance characteristics under conditions of use. Accordingly, the definition has been revised to include only products added to a bath for the purpose of producing foam and containing a surface-active agent that serves as a detergent or foaming ingredient.

The revised definition of bubble bath products therefore excludes bath oils containing a surfactant serving as a spreading agent and producing some froth (i.e., incidental, light, unstable foam) and lotion or similar products serving as emollients and containing surface-active agents serving as emulsifiers. Further excluded from this definition are baby, medicated and general cosmetic cleansers containing surface-active agents, if these products are not intended to be added to a bath for the purpose of producing foam. Incidental foaming during the cleansing process without a claim of such property as a principal cosmetic characteristic does not categorize a product as a bubble bath product.

Foaming bath oils and similarly identified products, however, are not excluded from the definition of the term "bubble bath product." Like bubble bath products, these products are intended to be added to a bath for the purpose of producing foam. Furthermore, as discussed in a previous section, these products do not differ significantly in composition from products labeled bubble bath products, and several consumer complaints of adverse reactions refer to foaming bath oil products.

Labeling and Other Issues

8. Comments argued that the warning should not be required on the label of bubble bath products in liquid form, on products marketed for males, on products intended for adults, and on small packages of 2 ounces or less per application.

The agency is not persuaded that liquid products should be exempted from a requirement of a label warning because of an alleged low incidence of adverse reactions. The adverse reaction data in the consumer complaint files do not permit the agency to conclude that liquid products and those intended for adults or for males cause fewer adverse effects in these subgroups or that they will not be used by others. Such products do not differ in surfactant composition from powder formulations or bubble bath products intended for use by children. The marketing of bubble bath products in small packages does not offer the agency assurance that adverse reactions will not occur. Consumers may misuse these products by using more than one package per bath, by prolonging individual exposure, or by using bubble bath products too frequently.

9. One comment requested that the proposed statement "* * * may cause irritation to the skin and urinary tract" be changed to "* * * cause irritation to skin or *mucous membrane*" (emphasis added). It was argued that irritation of the mucous membrane more accurately describes what may occur from the use of bubble bath products and that urinary tract irritation reported in association with the use of bubble bath arises as a consequence of irritation of the mucous membrane surrounding the urethra. Another comment recommended a warning that deletes any references to urinary tract symptoms as well as to excessive use or prolonged exposure.

The agency disagrees with the contention that the reference in the label warning to urinary tract irritation does not accurately describe what may occur as a result of the use of bubble bath products. Although irritation of the mucous membrane may be mentioned in the label warning to identify the precursor of irritation of the urinary tract, FDA concludes that, for the sake of brevity of the label statement and, at the same time, to fully inform consumers of the possible consequences of such use, the proposed caution that urinary tract irritation may occur is appropriate. If no mention were made of the possible occurrence of urinary tract irritation, consumers would be misled to believe that the most serious reaction that may occur from the use of bubble bath products would be irritation of the mucous membrane.

The reference to urinary tract irritation is also in agreement with some of the comments volunteered by physicians. Those comments reported that the irritation of the urinary tract disappeared when the use of bubble bath products was discontinued.

The agency also disagrees with the request for omission in the label warning of the statement that adverse reactions may be caused by excessive use of, or prolonged exposure to, bubble bath products. Such a deletion from the warning could mislead consumers to believe that prudent use of these

products may be as harmful as misuse. The adverse reaction data available to the agency indicate that excessive use and prolonged exposure are the causes of serious harm to consumers.

10. One comment suggested that the statement "Avoid inhalation of dust to prevent respiratory discomfort" not be adopted as a requirement for all bubble bath products in powder form. The comment stated that the commenter's product had been reformulated and the respiratory irritation problem resolved. The comment contended that the inhalation caution statement should therefore not be required for that product. Another comment suggested that this statement be included in the directions rather than the label warning.

The agency is persuaded that the problem of respiratory irritation from inhalation of the dust of powder bubble bath products has been eliminated, or at least significantly curtailed, through appropriate product reformulation. A review of the consumer complaints received by the FDA during the period of 1970 to 1976 demonstrated that the largest number of respiratory complaints were received in 1972. The number of such complaints decreased significantly in 1973, and no complaints of this type were received thereafter. Because of these events, the agency has decided to delete the phrase "Avoid inhalation of dust to prevent respiratory discomfort" from the required caution statement on bubble bath products in powder form. However, the agency urges manufacturers of powdered bubble bath products to include this or a similar statement in the directions for use. The respiratory irritation effect of the dust of detergent raw materials is well-known, and careless sprinkling of these products into water may result in such irritation. Notification of consumers in the directions for use that dusting may cause respiratory discomfort and should be avoided would greatly enhance the safe use of these products.

11. One comment recommended that the proposed effective date be abandoned and two other effective dates be established in its stead. The comment suggested that the first effective date apply to the ordering of new labels bearing the warning, and be the date 60 days after the date of publication of the final rule. The suggested second effective date would be the date when bubble bath products would be reqired to be labeled with the new labels bearing the required warning, and would be the date 9 months after publication of the final regulation.

The comment further argued that, should FDA continue to require the effective date by which bubble bath products introduced into interstate commerce must bear the label warning, cosmetic firms should be given no fewer than 2 years to comply with the new rule. The reasons given for these suggested delays in implementing the final rule were that the label changes could not be accomplished within the proposed 6 months, the proposed effective date would require overlabeling, and such label changes could be expensive.

The agency recognizes the difficulties and economic factors associated with the requirement for the label warning. However, FDA is not convinced that the time to implement the label change needs to be as long as suggested. Furthermore, such a delay would be contrary to FDA's mission of effective consumer protection. Accordingly, all affected products initially introduced or initially delivered for introduction into interstate commerce on or after August 19, 1981, shall comply with this regulation. This effective date should provide adequate time to implement the labeling of inventory not introduced into interstate commerce by the end of the 12-month period.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 601, 602, 701(a), 52 Stat. 1041 as amended, 1054 as amended, 1055 (21 U.S.C. 321(n), 361, 362, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 740 is amended by adding new § 740.17, to read as follows:

§ 740.17 Bubble bath products.

(a) For the purpose of this section, a bubble bath product is any product intended to be added to a bath for the purpose of producing foam that contains a surface-active agent serving as a detergent or foaming ingredient.

(b) The label of bubble bath products within the meaning of paragraph (a) of this section shall bear adequate directions for safe use and the following caution:

Caution—Use only as directed. Excessive use or prolonged exposure may cause irritation to skin and urinary tract. Discontinue use if rash, redness, or itching occur. Consult your physician if irritation persists. Keep out of reach of children.

(c) In the case of products intended for use by children, the phrase "except under adult supervision" may be added at the end of the last sentence in the caution required by paragraph (b) of this section.

Effective dates. All affected products initially introduced or initially delivered for introduction into interstate commerce on or after August 19, 1981, shall comply with this regulation.

(Secs. 201(n), 601, 602, 701(a), 52 Stat. 1041 as amended, 1054 as amended, 1055 (21 U.S.C. 321(n), 361, 362, 371(a)))

Dated: August 8, 1980.

Jere E. Goyan,

Commissioner of Food and Drugs.

[FR Doc. 80-25093 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 575

Waiver of Child Labor Provisions for Agricultural Employment of 10 and 11 Year Old Minors in Hand Harvesting of Short Season Crops; Provisions Governing Application for and Issuance of a Waiver; Restrictions on Use of Pesticides and Other Chemicals

AGENCY: Wage and Hour Division, Labor.

ACTION: Final rule.

SUMMARY: On February 15, 1980, the United States Court of Appeals for the District of Columbia Circuit entered a judgment ruling that certain portions of a regulation published by the Department of Labor relating to waivers pursuant to Section 13(c)(4) of the Fair Labor Standards Act for the employment of 10 and 11 year old children in the hand harvesting of pesticide-treated crops were invalid. The court held that the statute requires that there be absolute proof of the absence of danger to such children from the use of pesticides or other chemicals before waivers can be issued, and found that the department's regulation failed to apply this standard. The court further ruled that the Secretary of Labor lacked good cause to dispense with the notice-and-comment procedures required by the Administrative Procedure Act. The court remanded the case to the United States District Court for the District of Columbia for entry of an injunction pending appropriate notice-and-comment rulemaking (*National Association of Farmworker Organizations* v. *Marshall*, No. 79–1587).

The District Court issued an Order on February 29, 1980, enjoining the Secretary of Labor from granting any waivers pursuant to the portions of the regulation which the Court of Appeals held were invalid (Civil Action No. 79–1044). The District Court further ordered the Secretary to publish proposed regulations in the **Federal Register**, provide a period of at least 30 days for

public comment, with an additional 15 days thereafter for interested persons to reply, and to issue final regulations as soon as practicable after the close of the comment period.

The present Final Rule is issued pursuant to the order of the District Court, following issuance of proposed regulations and an appropriate comment period. The comments received during the comment period did not provide the degree of certainty required by the ruling of the Court of Appeals. Accordingly, the Final Rule merely republishes the applicable portions of the regulations published on June 21, 1978 (43 FR 26562), which were previously subjected to appropriate notice-and-comment rulemaking.

EFFECTIVE DATE: These regulations shall be effective on August 19, 1980.

FOR FURTHER INFORMATION CONTACT:

Lucille C. Pinkett, Wage and Hour Division, Room S–3022, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210; telephone 202–523–8412.

SUPPLEMENTARY INFORMATION:

The child labor provisions of the Fair Labor Standards Act generally prohibit employment of children under the age of 16. Certain exceptions allow the employment of younger children in agriculture under specific conditions delineated in the statute. In 1974, Congress prohibited the employment in agriculture of any child under the age of 12 under most conditions. This prohibition applied until 1977, when Congress enacted the waiver amendment for certain agricultural employment.

Section 13(c)(4) of the Act authorizes the Secretary to grant a waiver from the Act's prohibitions, to permit the limited employment of 10 and 11 year olds as hand harvesters of short season crops under specified conditions. Among other conditions, the statute prohibits the Secretary from granting such a waiver "unless he finds, based on objective data submitted by the applicant," that five enumerated requirements are met. One of these five prerequisites is a finding that "the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply." Section 13(c)(4)(A)(iii).

The Labor Department's final regulations implementing the waiver provisions were published on June 21, 1978 (43 FR 26562), after the Department had considered comments and testimony on its proposed regulations published on April 4, 1978 (43 FR 14068). The introduction to the final regulations discussed the testimony at a public hearing and information provided by the Environmental Protection Agency (EPA) and explained that "it was apparent from the testimony at the hearings that currently established EPA and other federal standards have not been shown to be safe for 10 and 11 year olds." Accordingly, the final regulations provided that the applicant for a waiver "will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds." The regulation also stated that in the event such data submitted by the growers, or additional studies undertaken by the Department, established safe reentry standards for particular chemicals, the regulation would be amended to include such standards so that a waiver applicant need merely identify the chemical and date last used.

When the Department determined that EPA standards could not be used to establish safe reentry times for children, the Department was concerned that the individual growers would simply not be able to meet their statutory burden of producing objective data showing that pesticides used would have no adverse effect on the health or well-being of 10 and 11 year old hand harvesters. Accordingly, the Department decided to try to develop its own expertise, by acquiring the scientific knowledge which would enable the Secretary to issue waivers where some pesticides had been used, if the necessary information to meet the statutory criteria existed. The Labor Department contracted in June, 1978, with Clement Associates, Inc., scientific regulatory consultants, to review data on the chemicals used by the affected growers.

Under a short term contract in 1978, Clement reviewed the scientific literature regarding approximately 30 chemicals used for strawberry and potato crops and issued reports in August, 1978, recommending minimum entry times for some chemicals. In reliance on these reports, the Department amended its regulations in August, 1978 to list certain pesticides which could be used if the specified periods had elapsed before 10 and 11 year olds were admitted to the fields. (August 18, 1978, 43 FR 36623).

Throughout the second half of 1978, officials of the Department consulted with EPA, OSHA, NIOSH, and experts outside the government to try to determine what type of longer term studies, including possible field observations, were needed to acquire pesticide data relating to children. They were advised that the needed study would take 3 to 5 years, and steps were taken to commence the long-term study to measure exposure levels and evaluate the risk to children more precisely. (In March 1980, the Department signed an agreement with EPA to conduct a 5-year study of the effects of pesticide exposure on the health of youth under 16 years of age employed in agriculture. This will, of course, include children 10 and 11 years of age affected by the waiver provision. The study will undertake to determine the actual pesticide exposure and physical effects of such exposure; absorption rates of pesticides into the body; and acute and chronic health effects in relation to duration and level of exposure.)

After publication of the August 18, 1978 amendment, the growers asked the Labor Department to study additional pesticides for possible inclusion on the approved pesticide list. Accordingly, the Department of Labor, in early 1979, initiated a second contract with Clement Associates to review 16 additional chemicals and re-review the 30 chemicals it had already studied under the first contract. Under this second contract, Clement Associates expanded its research of the scientific literature. Accordingly, in April and May, 1979, the waiver regulations were amended to delete certain chemicals from the approved list while including others (April 13, 1979, 44 FR 22061; April 24, 1979, 44 FR 24059; May 16, 1979, 44 FR 29049).

The National Association of Farmworker Organizations sued the Secretary of Labor on April 12, 1979, asserting that the standards adopted in the various amendments to the June 21, 1978 regulations were unlawful. The District Court ruled on June 7, 1979, that these standards were consistent with the Act's requirements.

The United States Court of Appeals for the District of Columbia Circuit subsequently ruled, however, that in publishing the amendments in question, the Secretary had failed to satisfy the statutory criteria. Specifically, the court stated that the Clement Report, on which the Secretary relied in issuing specific pesticide standards, was "based on the assumption that his recommendations would provide only 'reasonable protection' for the children." The court held, however, that under the statute there must be absolute proof of the absence of danger to 10 and 11 year old children from the use of pesticides or other chemicals. The court further ruled that the Secretary lacked good cause to

dispense with the notice-and-comment procedures required by the Administrative Procedure Act (*National Association of Farmworker Organizations* v. *Marshall*, No. 79–1587; Mar. 20, 1980).

In *Washington State Farm Bureau et. al.*, v. *Marshall* (C.A. 9, No. 79–4449), the Department is continuing to assert its position that its pesticide regulations are consistent with the statutory standard. This case was argued in the United States Court of Appeals for the Ninth Circuit on March 5, 1980. It is possible that the Ninth Circuit will reach a different result from that of the District of Columbia Circuit, in which event the matter may require resolution by the United States Supreme Court. In the meantime, however, in order to abide by the ruling in *National Association of Farmworker Organizations* v. *Marshall*, the Department is now issuing final regulations, after having thoroughly studied all of the comments following the close of the 45-day comment period provided in the proposed regulations issued on March 7, 1980.

The Secretary's proposed regulations listed the same pesticides and other chemicals and set the same minimum entry times for strawberries and potatoes as did those portions of the amended regulations which were held to be invalid by the Court of Appeals for the District of Columbia Circuit, and which were codified at 29 CFR 575.5(d). This was done in order to provide interested parties with a concrete proposal on which to comment.

A total of 43 written comments were received, as well as 10 responses to comments. The commenters included government officials, individuals and organizations in four states and the District of Columbia.

Thirty-five of the commenters expressed opinions favoring the employment of 10 and 11 year old children as hand harvesters but opposing restrictive regulations. Two organizations opposed the statutory provisions permitting such employment, as well as the Secretary's proposed implementing regulations. Several commenters noted the lack of documentation of illness or harm resulting from proper use of pesticides. Several comments related specifically to Benomyl and Captan, arguing for the importance and safety of these particular chemicals in the growing of strawberries.

Only 4 letters of comment included supporting scientific data.

One letter defended the use of Captan and Benomyl in the harvesting of strawberries by 10 and 11 year olds, and attached the affidavit of Dr. James M. Witt of Oregon State University which was filed with the Court of Appeals for the Ninth Circuit in the *Washington State Farm Bureau* case. Dr. Witt's affidavit criticizes the scientific bases and conclusions of the Clement Report.

Dr. Witt himself also submitted a statement reviewing his criticisms of the Clement Report.

Another letter enclosed material published in the journal *Agrichemical Age* regarding the herbicides 2,4–D and 2,4,5–T, and the chemical residue TCDD. Neither the commenter nor the journal material indicated whether these herbicides were necessary or appropriate for use on the short season crops which are the subject matter of the present regulations.

Finally, the National Association of Farmworker Organizations submitted material criticizing the Secretary's proposed regulations and contending that scientific data upon which safe entry standards may be developed for 10 and 11 year old children is presently non-existent.

The Secretary has concluded that none of the data submitted by commenters meets the test laid down by the Court of Appeals for the District of Columbia Circuit, i.e., absolute proof of no adverse health effects of pesticides or other chemicals on 10 and 11 year old children. In the opinion of the EPA, which reviewed the technical and scientific comments, none of the "comments establish, with absolute certainty, that there would be no adverse effect on the health or well-being of 10- and 11-year-old children where any of the pesticides or other chemicals described [in the proposed regulations] have been used on short season crops." Indeed, the EPA stated its belief that there is not "any scientific data or methods presently available which would show that particular pesticides or other chemicals can be used on crops with an absolute assurance of safety to harvesters." Thus, no minimum entry times for 10- and 11-year-old hand harvesters can presently be established for specific pesticides or other chemicals.

Consequently, the final regulation provides, as did the final regulation of June 21, 1978, that an applicant, in order to satisfy the statutory pesticide requirement, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds. If such data is sufficient, the application will be considered as meeting the statutory pesticide requirement.

Effective date. The Department finds that there is good cause for having this regulation become effective upon publication, thereby dispensing with the normal rule in section 553(d) of Title 5, U.S.C., that regulations are to be published not less than 30 days before their effective date. The regulation as now published authorizes the granting of waivers on the same basis as authorized under Section 13(c)(4) of the FLSA itself, even if there were no regulation. For this reason, there is no need for a delay in the effective date of the regulation.

This document was prepared under the direction and control of Henry T. White, Jr., Deputy Administrator, Wage and Hour Division.

Accordingly, Part 575, of Title 29 of the Code of Federal Regulations is revised by striking out all of present § 575.5(d) and substituting therefor the following:

§ 575.5 Supporting data to accompany application.

* * * * *

(d) The "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of" minors employed under the waiver. The safe reentry standards established by the Environmental Protection Agency, and followed by other federal and state agencies, were established for adult workers and have not been shown to be safe for 10 and 11 year olds. Therefore, the applicant, in order to satisfy this condition, will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds. If such data, or additional studies conducted by the Secretary or the Secretary's designee, establish safe reentry standards for 10 and 11 year olds, this section will be amended to include such standards and the applicant will then need only identify the type and level of pesticides or chemicals used and the date of last application of same prior to harvest.

* * * * *

(Secs. 11, 12, 13, 18, 52 Stat. 1067, 1069, as amended; (29 U.S.C. 211, 212, 213, 218); Secretary of Labor's Order No. 16–75, 40 FR 55913)

Signed at Washington, D.C. on this 14th day of August 1980.

Donald Elisburg,

Assistant Secretary for Employment Standards.

[FR Doc. 80–25240 Filed 8–18–80; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 346

Regulations Governing U.S. Individual Retirement Bonds

Correction

In FR Doc. 80–24070 appearing on page 53397 in the issue of Monday, August 11, 1980, make the following correction:

In Table A, the headings now reading,

Issue price	$50	$100	$500	$1,000
Period after issue date	Redemption values during each half-year period (values increase on first day of period shown)			

should have read,

Issue price	$50	$75	$100	$500
Period after issue date	Redemption values during each half-year period (values increase on first day of period shown)			

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1556-5]

Approval of Revision of the Commonwealth of Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This notice announces the Administrator's approval of an amendment to the Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to open burning. The amendment would allow sources to use on a temporary basis, for a defined site, an air curtain destructor for open burning both inside and outside of an air basin. Use of an air curtain destructor, which is a transportable incineration-type device, is optional if used outside of an air basin. The air curtain destructor must operate in such a manner that there are very little or no emissions and no odor problems. If subsequent to approval by the Department of Environmental Resources (DER) the operation should cause particulate, visible, or malodorous emissions, DER can rescind the approval. Since there are very little or no emissions, there is not expected to be a significant impact to ambient air quality.

EFFECTIVE DATE: September 18, 1980.

ADDRESSES: Copies of the amendment and 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, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Patricia Sheridan.

Pennsylvania Bureau of Air Pollution Control, Fulton Building, 18th Floor, 200 North Third Street, Harrisburg, PA 17120. Attn: Mr. James K. Hambright.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Patricia Sheridan, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597–8176.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Environmental Resources (DER) of the Commonwealth of Pennsylvania submitted for the Governor a revision of the Pennsylvania State Implementation Plan (SIP) consisting of an amendment to the Pennsylvania Air Resources Regulations. The revision submitted on August 11, 1976 pertains to Chapter 129, Standards for Sources, and relates to open burning operations. The Commonwealth of Pennsylvania submitted proof that public hearings were held for this revision on June 6, 7, and 8, 1976 in Norristown, Pittsburgh, and Harrisburg, Pennsylvania, respectively, in accordance with the requirements of 40 CFR 51.4. This amendment gives DER the authority to allow sources to use an air curtain destructor, a transportable incineration-type device, for clearing and grubbing wastes such as trees, shrubs and other native vegetation which are cleared from land during or prior to the process of construction.

Permission to use an air curtain destructor will be for a defined site on a temporary basis, not to exceed three months, both inside and outside of an air basin, for open burning. The use of an air curtain destructor is optional if used outside of an air basin. An extension may be approved by DER after three months for additional limited periods not to exceed six months. The air curtain destructor, once installed, must operate in such a manner that there are very little or no emissions and no odor problems. Although the Commonwealth of Pennsylvania has not stated in its regulations, DER notified EPA in a letter dated December 9, 1976 that if any visible emissions do occur, they would have less than 20% opacity. If, subsequent to approval by DER, the operation should cause particulate, visible or malodorous emissions, i.e., an air pollution problem, DER can rescind the approval. Since there are very little or no emissions, there is not expected to be a significant impact to ambient air quality. The Regional Administrator invited comments in the notice published in the **Federal Register** on March 13, 1980, 45 FR 16207, and provided for a 30-day comment period ending April 12, 1980.

II. Control Strategy Demonstration

This amendment is a regulatory change rather than a substantive change. Because the amendment has no adverse impact on air quality, a modeling demonstration of attainment and maintenance of standards is not required.

III. Public Comments

No comments were received during the 30-day public comment period.

IV. Policy Issues

There are no policy issues involved with this revision other than the basis for the Administrator's approval; i.e., whether the revision submitted by the Commonwealth of Pennsylvania meets the criteria of Section 110(a)(1) of the Clean Air Act and 40 CFR 51.4, Public Hearings; 51.5, Submittal of Plans; preliminary review of plans; 51.6, Revisions; and 51.11, Legal Authority.

V. EPA Evaluation

The revision submitted by the Commonwealth of Pennsylvania meets the criteria of Section 110(a)(1) of the Clean Air Act and 40 CFR 51.4, 51.6, and 51.11.

VI. Final Action

In view of this evaluation, the Administrator approves the above-described amendments to the Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to open burning, as a revision to the Pennsylvania State Implementation Plan. The revision allows sources to use, on a temporary basis, an air curtain destructor for open burning both inside and outside of an air basin.

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.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(42 U.S.C. 7401–642)

Dated: August 5, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart NN—Pennsylvania

1. Section 52.2020(c) is amended by adding a new paragraph (33) to read as follows:

§ 52.2020 Identification of plans

* * * * *

(c) The plan revision listed below was submitted on the date specified

* * * * *

(33) A revision submitted by the Commonwealth of Pennsylvania on August 11, 1976 consisting of an amendment to the Pennsylvania Air Resources Regulations, Chapter 129, Standards for Sources, which relates to open burning.

[FR Doc. 80-25143 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1569-1]

Approval of Revision of the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rulemaking amends the Maryland State Implementation Plan (SIP) to include the Secretarial Order issued to the Maryland Cup Corporation of Owings Mills, Baltimore County, Maryland. The revision would be effective for three (3) years from September 11, 1979 and applies to the regulation prohibiting visible emissions. During the three year period visible emissions may not exceed 25 percent opacity.

EFFECTIVE DATE: September 18, 1980.

ADDRESSES: Copies of the 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 and Walnut Streets, Philadelphia, PA 19106. Attn: Pat Sheridan.

Air Quality Programs, State of Maryland, O'Conor Office Building, 201 West Preston Street, Baltimore, MD 21203. 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.

FOR FURTHER INFORMATION CONTACT: Pat Sheridan (3AH10), U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, telephone number (215) 597–8176.

SUPPLEMENTARY INFORMATION:

I. Background

On September 27, 1979, the Administrator of Air Quality Programs for the State of Maryland submitted to EPA, Region III, a revision of the Maryland State Implementation Plan. The revision consisted of a Secretarial Order for the Maryland Cup Corporation of Owings Mills, Baltimore County, Maryland.

The Company's Owings Mills plant sprays paraffin wax onto paper cups. This operation causes visible emissions of wax vapors which are discharged through four rooftop exhausters.

Stack tests on one of the four (4) exhausters, conducted by Maryland indicated an average grain loading of 0.009 grains/SCFD and an emission rate of about 1.8 lbs./hr., well below the maximum levels for particulate emissions of 0.03 grains/SCFD required by Maryland regulations.

Additionally, a significant portion of this particulate matter, i.e. wax, settles out in the immediate vicinity of the rooftop exhausters.

The potential toxicity of the paraffin wax was investigated by the State and it was determined that this material is nontoxic and poses no known threat to the public health.

The Company and the County reported that there is no air pollution control device which could feasibly eliminate or reduce emissions because of the high volume of air and the clogging of any control device by the waxy particulate discharge.

The revision is effective for three (3) years from September 11, 1979, and applies to the regulation prohibiting visible emissions (COMAR 10.18.04.02A). During the three year period, visible emissions may not exceed 25 percent opacity.

Also, during this three year period, the company will continue to research the development of new control technology which may be adaptable to its drinking cup coating operations and will report its finding to local and State control agencies. Then, if necessary, determinations will be made whether to extend the variance once the three year period expires.

Since particulate emissions meet all applicable air quality regulations, and will not increase as a result of this revision, there is no need to revise those regulations.

The Regional Administrator invited comments in the notice published in the **Federal Register** on May 8, 1980, 45 FR 30456, and provided for a 30-day comment period.

II. Public Comment

No comments were received during the 30-day comment period.

III. Control Strategy Demonstration

A review of the submittal indicates that this revision will not result in a violation of either the National Ambient Air Quality Standards (NAAQS) or exceed the PSD increments for particulate matter.

IV. Approvability of the Proposed Revision

Based upon an evaluation of the material submitted by the State of Maryland, the Agency believes that the revision satisfies the applicable requirement of Section 110 of the Clean Air Act and EPA's regulations, 40 CFR Part 51. The revision will not exceed the PSD increments. Therefore, the Administrator approves the revisions to the Maryland State Implementation Plan.

Concurrently, the Administrator amends 40 CFR 52.1070 (Identification of Plan) of Subpart V (Maryland) to incorporate this plan revision into Maryland's SIP.

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. 7401–642)

Dated: August 8, 1980.

Douglas M. Costle,

Administrator.

Part 52 ot Title 40, Code of Federal Regulations is amended as follows:

Subpart V—Maryland

1. Section 52.1070 (c) is amended by adding a new paragraph (35) to read as follows:

§ 52.1070 Identification of plans.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(35) Variance from Maryland regulation 10.18.04.02(A) relating to visible emissions and allowing a maximum visible emission of 25% opacity. This variance expires on September 11, 1982. The variance request was submitted on September 27, 1979 by the State of Maryland.

[FR Doc. 80–25142 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

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40 CFR Part 52

[FRL 1576–4]

Approval of Revision of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to approve, on a conditional basis, portions of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Virginia on January 12, 1979. Those portions upon which no conditions are placed are fully approved unless indicated otherwise. This revised SIP was for those areas in Virginia designated as not attaining the National Ambient Air Quality Standards (NAAQS) for ozone and carbon monoxide. The plan addresses attainment of the standards for those pollutants and includes revisions required to meet the requirements of Part D of Title I of the Clean Air Act (the Act), as amended in 1977. Some of the most significant provisions of the revised SIP are the adoption of regulations requiring the installation of Reasonably Available Control Technology (RACT) for certain categories of Volatile Organic Compound sources, the implementation of an Inspection and Maintenance program for automobiles, and the implementation of transportation control measures in certain areas of Virginia.

EFFECTIVE DATE: August 19, 1980.

ADDRESSES: Copies of the revision and accompanying support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Sheridan

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, Southwest (Waterside Mall), Washington, D.C. 20460

Virginia State Air Pollution Control Board, Ninth Street Office Building, Room 1106, Richmond, Virginia 23219, Attn: Mr. John M. Daniel, Jr.

For the Transportation Control portions of the plan:

Southeastern Virginia Planning District Commission—Suite 100, 16 Koger Executive Center, Norfolk, Virginia 23502

Peninsula Area Transportation Policy Committee, 2019 Cunningham Drive, Hampton, Virginia 23366

Richmond Metropolitan Planning Organization, 6 North Sixth Street, Richmond, Virginia 23219

Public Information Center, Metropolitan Washington Council of Governments, 1875 Eye Street, NW., Suite 200, Washington, D.C. 20006

FOR FURTHER INFORMATION CONTACT: Mark E. Garrison (3AH13), Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, Tenth Floor, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; telephone: (215) 59–2745.

SUPPLEMENTARY INFORMATION: On July 30, 1979, EPA published a notice of proposed rulemaking, 44 FR 44564, which described the nature of the SIP revision, discussed certain provisions which in EPA's judgment did not comply with the requirements of the Act, and requested public comment. Several comments on this proposed rulemaking notice were received by EPA. In addition, Virginia submitted SIP revisions on September 7, 1979 and September 24, 1979 that contain, in part, corrections to the deficiencies noted by EPA in the July 30, 1979 notice of proposed rulemaking. Finally, on December 18, 1979 Virginia submitted a SIP revision designed to demonstrate attainment of the new .12 standard for ozone (this revised standard was published February 8, 1979 at 44 FR 8202). Certain elements of this last submittal also correct noted deficiencies. EPA has evaluated the portions of the later submittals that correct noted deficiencies and is taking final approval action on those portions. Rulemaking on the balance of the later sumittals will take place in the near future.

The portion of the Virginia nonattainment plan revision dealing with implementation of the "bubble" concept, namely Section 4.55(b) of the Virginia regulations, is not adequately enforeable and is therefore disapproved. Since implementation of this concept is not a Part D requirement, disapproval of Section 4.55(b) does not require the disapproval of Virginia's nonattainment plan revision.

EPA has reviewed and evaluated all public comments received during the comment period and has come to the conclusion that the SIP revision submitted by Virginia on January 12, 1979 for attainment and maintenance of the NAAQS for ozone and carbon monoxide should be approved on a conditional basis and that such approval be contingent upon the satisfactory accomplishment of the conditions and deadlines contained herein.Elsewhere in today's **Federal Register**, EPA is inviting public comment on the acceptability of deadlines for complying with the conditions of approval. In addition, because the January 12, 1979 submittal makes numerous revisions to Part II, Section 2.33, PERMITS—Stationary Sources and Indirect Sources of the Virginia regulations, this rulemaking will address not only this submittal but all previous proposals dealing with Section 2.33 and not yet finalized by EPA. Such proposed SIP revisions included the submittals dated August 14, 1975 (proposed at 40 FR 53595), October 20, 1976 (proposed at 42 FR 16446), August 31, 1977 (proposed at 43 FR 24858), and September 20, 1978 (proposed at 45 FR 34018).

The information in this notice is divided into five sections entitled "INTRODUCTION," "BACKGROUND", "DEFICIENCIES AND REMEDIES", "PUBLIC COMMENTS ON PROPOSAL," and "EPA ACTIONS." The INTRODUCTION section outlines the development of the Virginia Implementation Plan revision. The "BACKGROUND" section describes the Virginia plan revision for each nonattainment area. The "DEFICIENCIES AND REMEDIES" section describes where the SIP is

inadequate because it did not satisfy all the regulatory requirements and presents schedules and deadlines to correct these deficiencies. It also explains how some of the deficiencies cited in the proposed rulemaking **Federal Register** Notice, 44 FR 44564 (1979), were satisfied by later submittals by Virginia. The "PUBLIC COMMENTS ON PROPOSAL" section summarizes relevant comments received on the proposal and provides EPA's response to them. The "EPA ACTIONS" section explains EPA's decision to approve conditionally portions of Virginia's plan revision and to approve other portions based on considerations discussed in the two preceding sections.

I. Introduction

The Virginia nonattanment plan revision was developed and submitted to EPA in response to the requirements of Part D of the Act. In general, the SIP is required to provide for attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) for all areas which have been designated "nonattainment" pursuant to Section 107 of the Act. On March 3, 1978, 43 FR 8962, and on September 12, 1978, 43 FR 40502, the Adminstrator of the Environmental Protection Agency, in accordance with requirements of Section 107 of the Act, as amended, designated certain areas of Virginia as nonattainment for ozone and carbon monoxide. These designations are indicated in Table 1 below.

Table I—Nonattainment Areas in Virginia

Ozone

I. Southwest Virginia-Eastern Tennessee Interstate AQCR
Smyth County
II. Valley of Virginia Intrastate AQCR
Roanoke County; Roanoke City; Salem City
III. Northeastern Virginia Interstate AQCR
Stafford County
IV. State Capital Intrastate AQCR
Richmond City; Henrico County; Chesterfield County
V. Hampton Roads Interstate AQCR
Chesapeake City; Norfolk City; Portsmouth City; Suffolk City; Virginia Beach City; Newport News City; Hampton City
VI. National Capital Interstate AQCR

Carbon Monoxide

I. National Capital Interstate AQCR
City of Alexandria; Arlington County; Fairfax County—areas of high traffic density

Virginia in its submittal sub-divided the Hampton Roads Intrastate AQCR into two parts, the Peninsula and Southeastern Virginia areas. For the sake of simplicity, the nonattainment areas indicated above will be referred to throughout the remainder of this notice as follows:

1. Southwest Virginia-Eastern Tennessee Interstate AQCR: referred to as "Smyth County."
2. Valley of Virginia Intrastate AQCR: referred to as "Roanoke Area."
3. Northeastern Virginia Interstate AQCR: referred to as "Stafford County."
4. State Capital Intrastate AQCR: referred to as "Richmond Area."
5. Hampton Roads Intrastate AQCR: referred to as "Peninsula Area" (Hampton and Newport News cities) and "Southeastern Virginia Area" (Chesapeake, Norfolk, Portsmouth, Suffolk, and Virginia Beach cities).
6. National Capital Interstate AQCR: referred to as "Northern Virginia."

Section 174 of the Act requires that certain portions of the SIP for carbon monoxide and ozone be prepared by an organization of local elected officials. The Governor of Virginia designated local planning groups as the agencies responsible for developing the transportation components of the Virginia SIP for their area. The designated Section 174 agencies were generally responsible for development of transportation control measures, which were coordinated with the transportation planning process. The Commonwealth was responsible for technical support to designated agencies as well as for Inspection/Maintenance (I/M) programs, stationary source control, new source review, and any other programs encompassing areas beyond the authority of local governments.

Based on the January 12, 1979 SIP submittal, the Commonwealth does not anticipate achieving the .08 ppm standard by the end of 1982 for any of the nonattainment area; accordingly, the Commonwealth requested an extension of the deadline for achieving this standard until the end of 1987. Since EPA revised the ozone standard to .12 ppm on February 8, 1979, 44 FR 8202, the Commonwealth's submittal was evaluated by EPA to determine if the new standard can be achieved by 1982. The results of this evaluation indicate that Richmond and Northern Virginia are the only areas which will not attain the ozone standard by 1982. Further details are presented below in the section entitled Deficiencies and Remedies.

The Commonwealth of Virginia held public hearings on October 10, 1978 and December 18, 1978 in accordance with the public notice and all other requirements of 40 CFR 51.4. Subsequent to these hearings the regulations were formally adopted. EPA proposed the Virginia nonattainment plan revision in the **Federal Register** on July 30, 1979, 44 FR 44564, and solicited public comments on the plan. The comments received and EPA's response are summarized below in the section entitled Public Comments on Proposal.

The following summarizes Virginia's major submittals in response to the notice of proposed rulemaking and additional submittals regarding attainment of the ozone standard:

July 11, 1979: Senator Howard Anderson, Chairman of the Virginia Air Pollution Study Commission, submitted a schedule for submission of proposed I/M legislation to the Governor.

August 28, 1979: Virginia submitted comments on the notice of proposed rulemaking including a discussion of how Virginia intended to deal with each of the deficiencies cited in the notice. This submittal also contained an official request to redesignate Smyth County to attainment based on the new ozone standard.

September 7 and September 24, 1979: Virginia submitted SIP revisions that included, among other things, corrections to some of the deficiencies noted in the notice of proposed rulemaking.

October 15, 1979: Virginia submitted a draft of a revised control strategy demonstration for the Richmond area.

December 18, 1979: Virginia submitted a SIP revision that was designed to show attainment of the .12 ppm statistical ozone standard. This submittal included, among other things, corrections to some of the deficiencies noted in the notice of proposed rulemaking. It also contained regulations implementing the "Round II CTGs" which are discussed in Section III below.

April 8, 1980: Virginia submitted I/M legislation to EPA. Specific requirements for an approvable SIP are discussed in the General Preamble published on April 4, 1979, 44 FR 20372, and in the following Supplements:

July 2, 1979, 44 FR 38583
August 28, 1979, 44 FR 50371
September 17, 1979, 44 FR 53761
November 23, 1979, 44 FR 67182

The following list summarizes the basic requirements for nonattainment area plans.

1. Evidence that the proposed SIP revisions were adopted by the State after reasonable notice and public hearing.

2. A provision for expeditious attainment of the standards.

3. A determination of the level of control needed to attain the standards by 1982 and the criteria necessary for approval of any extension beyond that date.

4. An accurate inventory of existing emissions.

5. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.

6. An identification of emissions growth.

7. A permit program for major new or modified sources, consistent with Section 173 of the Clean Air Act.

8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.

9. Inspection and Maintenance (I/M) if necessary, as expeditiously as practicable.

10. Necessary transportation control measures, as expeditiously as practicable.

11. Enforceability of the regulations.

12. An identification of and commitment to the resources necessary to carry out the plan.

13. State commitments to comply with schedules.

14. Evidence of public, local government, and State involvement and consultation.

A discussion of the conditional approval of certain elements in Virginia's plan and its practical effect appears in Supplements to the General Preamble, 44 FR 38583, July 2, 1979, and in 44 FR 61782, November 23, 1979. The conditional approval requires the State to submit additional materials by the deadlines proposed elsewhere in today's **Federal Register**. There will be no extensions of conditional approval deadlines which are being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the State's submission to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met and withdraw the conditional approval and disapprove the plan. If the plan is disapproved, the Section 110(a)(2)(I) restrictions on construction will be imposed.

3. If the State fails to submit in a timely manner the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect. Moreover, if a State has failed to submit the required data to meet any condition contained in this Notice, EPA will at that time consider whether the funding restrictions contained in Sections 176(a) and 316 are also appropriate. (See 44 FR 33473, June 11, 1979.)

Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, the State remains bound by its commitment to meet the proposed deadlines, unless they are changed.

It is important to note that EPA is taking final action today only on the January 12, 1979 submittal and on those elements of the September 7, September 24, and December 18, 1979 SIP submittals that satisfy conditional approval items. Rulemaking on the balance of the September 7, September 24 and December 18 SIP submittals will take place in the near future.

The 1978 edition of 40 CFR Part 52 lists in the subpart for Virginia the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines, those deadlines are substituted on Virginia's attainment date chart in 40 CFR Part 52. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as with the new Section 172 of the Act.

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan.
>
> This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D.
>
> (123 Cong. Rec. H11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment.*

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

"Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include passenger cars, although other classes can be included as well. Operation of non-complying vehicles must be prohibited. This can best be accomplished by requiring proof of compliance to purchase license plates or to register a vehicle. In certain cases, a windshield sticker system may be used, much like many safety inspection programs.

Section 172 of the Clean Air Act requires that State Implementation Plans for States which include nonattainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to

* *See* General Preamble for Proposed Rulemaking, 44 FR 20373-74 (April 4, 1979).

1987 may be granted. In such cases Section 172(b)(11)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program * * *"

EPA issued guidance on February 24, 1978, on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Both of these items are part of the SIP guidance material referred to in the General Preamble for Proposed Rulemaking, 44 FR 20372 (1979). Though the July 17, 1978 guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

Legal Authority. States or local governments must have adopted the necessary statutes, regulations, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172 (b)(10).)

Commitment. The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10).)

Resources. The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7).)

Schedule. A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172 (b)(11)(B).) Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).

Program Effectiveness. As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25% reduction in passenger car exhaust emissions of hydrocarbons and a 25% reduction of carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions * * * shall * * * provide for the implementation of all reasonably available control measures * * *"

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision-making to an appropriate regulatory body. For example, a State Department of Environmental Protection or Department of Transportation may be charged with implementing the program, selecting the type of test procedure, as well as the type of program to be used, and adopting all necessary rules and regulations. I/M authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982) unless an approved extension to certify legal authority is granted by EPA. The granting of such an extension, however, is an exceptional remedy to be utilized only when a State legislature has had no opportunity to consider enabling legislation. As discussed later in this Notice, Virginia has met the requirements for obtaining a one-year legislative extension for I/M.

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plans." (Section 172(b)(10).) Under Section 172 (b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an inspection/maintenance program is required. (Section 172(b)(11)(B).) The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirements for compliance modified at 40 CFR 51.15(c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable, an I/M program must achieve the requisite 25% reductions in both hydrocarbon and carbon monoxide exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "Implementation of all reasonably available control as expeditiously as practicable." (Section 172(b)(2)). At the time of passage of the Clean Air Act Amendments of 1977, several inspection/maintenance programs were already operating, including mandatory programs of New Jersey and Arizona operating at about a 20% stringency. (The stringency of a program is defined as the initial proportion of vehicles which would have failed the program's standards if the affected fleet had not previously undergone I/M. Because some motorists tune their vehicles before I/M tests, the actual proportion of vehicles failing is usually a smaller number than the stringency of the program.) Depending on program type (private garage or centralized inspection) a mandatory I/M program may be implemented as late as December 31, 1982 and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1982 and a 20% stringency factor, EPA predicts that reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Earlier implementation of I/M will produce greater emission reductions. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

II. Background

As a result of the nonattainment designations described in the Introduction section of this Notice, and in accordance with the requirements of Part D of the Clean Air Act, as amended, Maurice B. Rowe, Secretary of Commerce and Resources acting on behalf of Governor John N. Dalton, submitted a revised SIP for each nonattainment area on January 12, 1979. The nonattainment plan revisions submitted by the Commonwealth of Virginia are summarized below. The submittals did not vary for each nonattainment area except as noted.

A. Stationary Source Control Measures

Virginia's nonattainment plan revision contains provisions for controlling volatile organic compound (VOC) emissions from stationary and mobile sources. For oxidant nonattainment areas, EPA requires the adoption of reasonably available control technology (RACT) for eleven (11) VOC source categories. The Virginia SIP regulates sources in all 11 categories: solvent metal cleaning; tank-truck gasoline loading terminals; cutback asphalt; bulk gasoline plants; gasoline service stations—Stage I controls; storage of petroleum liquids in fixed-roof tanks; surface coating for insulation of magnet wire; surface coating of cans, coils, paper, fabrics, automobiles, and light-duty trucks; petroleum refinery sources; and surface coating of metal furniture.

B. Preconstruction Review

The Commonwealth of Virginia included regulations in its nonattainment plan revision providing, among other things, for the issuance of permits to new stationary sources. These regulations were submitted to satisfy the requirements of Sections 172(b)(6) and 173 of the Act regarding

new major stationary sources to be constructed in nonattainment areas.

C. Transportation Control Measures

Virginia's submittal included a chapter on Transportation Source Measures (TCMs) for each nonattainment area except Smyth County, Roanoke, and Stafford County. TCMs are not required for these ozone nonattainment areas because their population is less than 200,000. This portion of the plan describes ongoing transportation source measures and measures that have been committed to future study and implementation.

In reviewing the Transportation Control Measures portion of Virginia's nonattainment plan revision, EPA solicited comments from the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Transportation (DOT).

EPA has evaluated these comments along with others before taking final action on the SIP. Also, HUD and DOT have been given an opportunity to comment on this final rule. EPA and DOT's meetings with Section 174 agencies on the transportation control measures portion of the Virginia submittal resulted in their submitting supplemental information. EPA evaluated this supplemental information for adequacy in relation to the approval status of the various Virginia plans and has reflected the results of this analysis in the formulation of this final rule.

D. Inspection/Maintenance

Virginia's January 12, 1979 submittal included a tentative schedule in Chapter 9 of the plans for the four major urbanized areas for the implementation of I/M for both the contractor and private-garage approaches. This schedule is based on anticipated 1980 legislative authority for the program. On March 9, 1979, the Governor submitted a letter to EPA requesting reconsideration of EPA's January 3, 1979 denial of a one-year legislative extension and enclosed as an attachment Senate Joint Resolution #118 which continues the Air Pollution Study Commission until December 1, 1979, when it is to provide its report and recommended legislation to the Governor and to the General Assembly. On July 11, 1979 State Senator Howard Anderson, Chairman of the Virginia Air Pollution Study Commission, submitted a schedule for submission of proposed I/M legislation to the Governor. The proposed legislation was submitted to the Governor on December 7, 1979, and was introduced to the Virginia Legislature on January 15, 1980. The Virginia Legislature passed an I/M bill in March 1980, and it was submitted to EPA on April 8, 1980.

III. Deficiencies and Remedies

This section contains a discussion of the status of deficiencies identified by EPA in the proposed rulemaking in the July 30, 1979 **Federal Register** and during the public comment period. Where conditional approvals are appropriate, schedules for correction of deficiencies are presented. These schedules are proposed elsewhere in today's **Federal Register** for public comment. The deficiencies are summarized for each pollutant following the same format as the proposed rulemaking. Any SIP elements not addressed contained no deficiencies and are being approved in today's Notice. Where a deficiency had been clearly identified in EPA's proposed rulemaking, and where a later submittal clearly remedied that deficiency, EPA is taking final action on the portion of the later submittal that remedies the deficiency.

In the following sections of this Notice there are several references to the terms "design value," "rollback," and "CTG." To avoid confusion or misunderstanding, these terms are defined below.

Design Value—the level of existing air quality used as a basis for determining the amount of change of pollutant emissions necessary to attain a desired air quality level.

Rollback—a proportional model used to calculate the percent reduction in pollutant emissions needed for attainment of a national ambient air quality standard.

CTG—this refers to the Control Techniques Guideline documents published by EPA, establishing guidelines for determining reasonably available control technology (RACT) for different categories of volatile organic compound (VOC) sources. "Round I" refers to CTGs published prior to January, 1978, and "Round II" refers to CTGs published between January 1978 and January 1979.

A. Ozone

1. *Attainment Date.* Based on the January 12, 1979 SIP submittal, the Commonwealth does not anticipate achieving the .08 ppm standard by the end of 1982 for any of the designated nonattainment areas. The Commonwealth requested an extension of the deadline for achieving this standard until the end of 1987. In the proposed rulemaking, EPA stated that an extension may be approved provided Virginia demonstrates that attainment by 1982 is impossible, despite the implementation of RACT for stationary source categories of volatile organic compounds (VOC's) and the implementation of transportation control measures, including inspection and maintenance (I/M) in those major urbanized areas where the population exceeds 200,000.

EPA has evaluated the Virginia SIP to determine if the current ozone standard of .12 ppm can be achieved by 1982. This would then be the determining factor in granting an extension. Based on this analysis, the Northern Virginia and Richmond nonattainment areas will not be able to attain the .12 ppm ozone standard by the end of 1982. EPA is therefore approving the ozone plan with an attainment date for Northern Virginia and Richmond of December 31, 1987.

Based on EPA's analysis, the remaining nonattainment areas will show 1982 attainment of the .12 ppm ozone standard. Therefore, Virginia's request for extensions in these areas is no longer necessary. The attainment date for the Roanoke area, Stafford County, Peninsula, and Southeastern Virginia will be December 31, 1982.

Persons interested in a more complete discussion of EPA's analysis are encouraged to consult the Rationale Document prepared by EPA, Region III for this rulemaking action which is available for public inspection at the locations identified in the Addresses section of this notice. It should be noted that Virginia's submittal of December 18, 1979 for attainment of the .12 ppm ozone standard included an extension request only for the Richmond and Northern Virginia areas. Thus the results of EPA's analysis are consistent with Virginia's most recent request.

2. *Control Strategy and Demonstration of Attainment.* The Commonwealth's submittal was developed on the basis of the former .08 ppm oxidant standard. Virginia submitted a request for a SIP revision based on the new .12 ppm ozone standard on December 18, 1979, which will be acted on at a later date.

In the proposed rulemaking, EPA requested that the Commonwealth select an ozone design value for Northern Virginia that is compatible with the design value adopted by the District of Columbia and State of Maryland in their portions of the National Capital Interstate AQCR. Virginia has agreed to use a common design value for this area. The new SIP revision based on the .12 ppm ozone standard reflects this change. Therefore, EPA approves the demonstration element of the Northern Virginia portion of the Virginia ozone SIP, and also approves the design value used in

Chapter 3 of the Northern Virginia plan submitted on December 18, 1979.

3. *Emission Inventory.* In the proposed rulemaking, EPA noted that source-specific operating data, actual calculations, and methods of estimation used in developing the inventory were not included in Virginia's SIP. Although this source-specific information has not been submitted, EPA believes that the emissions inventory satisfies the minimum requirements set forth in EPA guidance on the development of emissions inventories and is therefore approved. However, EPA will require Virginia to include source-specific data and emission reductions achieved as part of the Commonwealth's RFP tracking reports. These reports must be submitted to EPA at least on an annual basis.

4. *Reasonable Further Progress.* In the notice of proposed rulemaking, EPA stated that the reasonable further progress (RFP) requirement was met with respect to the volatile organic compound (VOC) demonstration but not met for the transportation control measures (TCM) portion of the SIP. Following its further review of the Virginia SIP, EPA concludes that the RFP requirement for TCM has in fact been met. This conclusion is based on the commitment made by the Virginia Department of Highways and Transportation (VDH&T) to show "RFP" as future transportation source measures are developed (See p. 10.2 of the Northern Virginia plan). Therefore the RFP portion of the SIP is approved.

In response to comments received during the public comment period, EPA wishes to make the following statements regarding RFP:

a. The "objective" line in Virginia's RFP demonstration is interpreted by EPA as the RFP line, although not explicitly identified as such.

b. The definition of RFP is deficient; however, the deficiency is treated below in the "enforceability" section of this Notice.

5. *Margin for Growth.* EPA noted in the proposal that a tracking system for emissions growth was not included in the SIP. Virginia has agreed to submit a growth tracking system by September 30, 1980. This tracking system combined with the Commonwealth's preconstruction review program will adequately track growth in Virginia. Therefore, EPA approves this SIP element conditioned on the formal submittal of the growth tracking system by September 30, 1980. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of this schedule.

6. *Preconstruction Review.* Virginia's submittal included Section 2.33 of the Virginia regulations which was intended to satisfy the preconstruction review requirements of Sections 172(b)(6) and 172(b)(11)(A) of the Clean Air Act. EPA stated in the proposed rulemaking that Virginia's submittal satisfied these requirements. During the public comment period a commenter pointed out that Virginia's provisions for preconstruction review were deficient in a number of areas. Each of the issues raised and EPA's response to each are presented below in the Public Comments section. One of the comments expresses concerns that deal with the definition of "reasonable further progress" (RFP) and are addressed in the "enforceability" section below (number 10).

In response to another of the comments, EPA wishes to express its interpretation of the enforceability of offset requirements. Any source required to reduce emmissions in order to provide an offset will be required to meet the lower emission rate as a legally binding permit condition or revised emission limitation. Furthermore, any revised permit/emission limitation for a third party offset must be submitted to EPA as a SIP revision in order to become enforceable under Federal law. The effect of this will be to have an enforceable emission limitation for both the new source and any existing source(s) from which offsets were obtained. That this is, in fact, the way in which the offset provision will work has been confirmed by discussions with VSAPCB staff and by letter dated April 15, 1980. Approval of the new source review element of the SIP is based on this interpretation of the offset regulation and any deviation from this interpretation (as, for example, a case where an offset obtained from a third party is not directly enforceable against that third party) will not be acceptable.

Subject to this interpretation, the preconstruction review program as expressed in Section 2.33 of Virginia's regulations remains acceptable insofar as meeting the requirements of Sections 172(b)(6) and 172(b)(11)(A) of the Act.

Section 2.33 has undergone numerous revisions for which EPA has published proposed rulemaking but has not taken final action. Outlined below is a description of the different parts of Section 2.33 and the action that EPA is now taking on them. This description should clarify the status of Section 2.33 in relation to EPA approval. The only public comment received by EPA about Section 2.33 was that addressed above and in the Public Comments section below.

1. Sections 2.33(a) and (f)—The Commonwealth submitted administrative changes including a new numbering system on August 14, 1975. There were also several changes submitted on October 20, 1976, September 20, 1978, and January 12, 1979. These changes were published as Proposed Rulemaking (PRM) in the **Federal Register** on November 19, 1975, 40 FR 53595, March 28, 1977, 42 FR 16446, May 21, 1980, 45 FR 34018, and July 30, 1979, 44 FR 44564 respectively.

EPA is approving Sections 2.33(a) and 2.33(f) as they appear in the January 12, 1979 submittal except for 2.33(f)(3), which as noted below in Section III. 10(f) of this Notice, is being approved as it appears in the September 24, 1979 submittal.

2. Section 2.33(b), (i), and (j)—revisions were submitted on August 14, 1975 and subsequently proposed in the **Federal Register**, 40 FR 53595 (1975). § 2.33(b) and (i) are being approved in today's Notice. However, § 2.33(j) as submitted on August 14, 1975 relates to an indirect source, Parking Management Supply Alternative, and the Commonwealth requested by letter dated December 1, 1978 that consideration of this Section as a SIP revision be withdrawn. This has been done and is addressed the Proposed Rulemaking published on May 21, 1980 at 45 FR 34018.

3. Sections 2.33(c) and (g)—again, numerous revisions have been submitted since August 14, 1975 and were published as proposed rulemaking in the **Federal Register** on the dates noted in paragraph 1. The final revision to Section 2.33(c) occurred in the January 12, 1979 submittal. EPA is approving Section 2.33(c) as written and submitted at that time. As noted elsewhere in today's Notice, Section 2.33(g)(1) as amended on September 7, 1979, is approved (see Section III.10(d) below). Section 2.33(g)(2) relates to Indirect Sources and as noted in the May 21, 1980 **Federal Register** 45 FR 34018, this subsection is not considered part of the Virginia SIP.

4. Sections 2.33(d) and (e)—revisions were submitted on August 14, 1975, proposed at 40 FR 53595, and January 12, 1979, proposed at 44 FR 44564. EPA is approving these sections as submitted on January 12, 1979.

5. Section 2.33(h)—revisions were submitted on August 14, 1975 and August 31, 1977 and proposed in the **Federal Register** on November 19, 1975, 40 FR 53595, and June 8, 1978, 43 FR 24858. No further revisions have been submitted and EPA is taking final action

to approve this section as it reads in August 31, 1977 submittal.

6. Section 2.33(k)—this section as submitted on August 14, 1975 was withdrawn by letter dated December 1, 1978, 45 FR 34018. A new Section 2.33(k) was submitted on January 12, 1979, 44 FR 44564, and is being approved in this Notice.

7. Section 2.33(l)—relates to Indirect Sources and is not considered a part of the Virginia SIP.

Also, at this time EPA would like to clarify a point in the **Federal Register** published on May 21, 1980, 45 FR 34018, 34019. It is not only Section 2.33(a)(1)(ii) of the September 20, 1978 submittal which is withdrawn from consideration as a SIP revision, but also the parenthetical reference contained in Section 2.33(a)(1)(i) is deleted.

The above information provides a comprehensive analysis of each subsection of Section 2.33 which is approved as a part of the Virginia SIP.

7. *RACT as Expeditiously as Practicable.* In the July 30, 1979 proposed rulemaking, EPA outlined six sections of Virginia's VOC regulations which were not considered to reflect the implementation of RACT. EPA also noted that another section of Virginia's VOC regulations, although legally acceptable, could encourage the use of certain degreasing compounds which may be potentially harmful.

Virginia has corrected some of the RACT deficiencies and has agreed to correct the remaining ones as described in detail below. The schedule to correct the remaining deficiencies is presented here:

(1) Not later than September 30, 1980 Virginia will submit draft revised regulations remedying the remaining deficiencies noted below, or will submit adequate documentation to justify the proposed regulations as RACT. A draft revised regulation or an adequate justification must be submitted for each source category identified below as still being deficient. If a justification is submitted in lieu of a draft revised regulation, the second increment due November 30, 1980 will no longer be applicable.

(2) Not later than November 30, 1980 Virginia will submit final regulations, where applicable, correcting the noted RACT deficiencies.

The RACT deficiencies that must be corrected according to the above schedule are given in (a) through (d) below:

(a) The emission limitation on automobile and light duty truck coating in Section 4.55(e)(2) for topcoat application is not considered RACT.

(b) Section 4.56(d)(3)(ii) provides an exemption from Stage I vapor controls for gasoline service stations with a throughput of less than 20,000 gallons per month. This exempts sources from regulation that should be covered under RACT. EPA policy require RACT on only those sources which have the potential to emit greater than 100 tons per year (major sources) of volatile organic compounds in those areas where the attainment date for the ozone NAAQS is December 31, 1982. In areas where the attainent date is later than December 31, 1982, RACT is required for all sources unless a specific justification is provided. Since gasoline service stations with a throughput of less than 20,000 gallons per month are not major sources, the exemption contained in Section 4.56(d)(3)(ii) is acceptable for all areas except Richmond and Northern Virginia. These sources in Northern Virginia are covered by regulations promulgated by EPA (40 CFR 52.2438). While this coverage eliminates the noted deficiency for Northern Virginia, EPA encourages Virginia to bring its regulations in line with EPA RACT requirements for the sake of eliminating the confusion that may result from different size sources being covered by different regulations in Northern Virginia. Furthermore, it should be noted that EPA may in the future require States to submit a SIP revision adopting the Federal regulations where applicable. Section 4.56(d)(3)(ii) is therefore deficient only as it applies to the Richmond area.

(c) Section 4.54(a)(4)(i) provides a general exemption for sources of VOC emissions. This exemption allows a large portion of the sources in the solvent metal cleaning industry to go uncontrolled. There are a large number of small metal cleaning operations and control of these sources is considered RACT. Because of the policy regarding major sources outlined above (see (b)), and because the exemption does not affect any major sources, this deficiency only applies for the Richmond and Northern Virginia areas where the request for an extension until December 31, 1987 is still necessary. The exemption, furthermore, is a deficiency only as it applies to Section 4.54(c) dealing with Solvent Metal Cleaning.

(d) In the proposed rulemaking, EPA noted three deficiencies with Section 4.57(b), Virginia's regulations controlling cutback asphalt paving. The first deficiency, allowing temperature exemption instead of a seasonal exemption, has been remedied as described below. The final two deficiencies with Section 4.57(b) have not been remedied. They are as follows:

(i) Allowing up to 15 percent solvent in emulsified asphalt is not considered RACT.

(ii) Allowing the use of cutback asphalt as a tack coat is not considered RACT.

Virginia has agreed to remedy these RACT deficiencies; therefore, EPA conditionally approves the RACT portion of the Virginia SIP based on Virginia's meeting the above schedule for resolution of all of the RACT deficiencies. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on this conditional approval and the acceptability of the schedule.

Three other regulations were also cited in the notice of proposed rulemaking as not representing RACT. In the September 24, 1979 submittal, Virginia corrected the deficiencies as noted in (e), (f) and (g) below:

(e) The temperature exemption contained in Section 4.57(b)(2)(ii) was replaced by a seasonal exemption. This is acceptable to EPA.

(f) The emission limitation for end sealing compound coating of cans (Section 4.55(f)(4)(i)) was changed from 4.2 lbs. of VOC to 3.7 lbs. of VOC per gallon of coating, excluding water. EPA believes that this represents RACT for this type of operation.

(g) In the January 12, 1979 SIP submittal, only a 50 percent efficient vapor control system for bulk plants with a throughput greater than or equal to 4,000 gallons per day was required by Section 4.56(e), Virginia's Gasoline Bulk Loading—Bulk Plant regulations. This emission limit was not considered RACT. Virginia has remedied this deficiency, in the SIP revision of September 24, 1979 by including a provision requiring 77 percent overall plant control instead of 50 percent control. This will result in the installation of the same type of control technology as recommended in the CTG for bulk plants, and the overall control efficiency corresponds to the efficiency contained in the CTG.

EPA therefore approves sections 4.57(b)(2)(ii), 4.55(f)(4)(i), and 4.56(e) of Virginia's September 24, 1979 submittal which remedy noted deficiencies in the nonattainment plan. Rulemaking on the balance of the September 24, 1979 submittal will take place in the near future.

Virginia's SIP exempts methyl chloroform (1,1,1, trichloroethane) and methylene chloride from its definition of "nonmethane." On May 16, 1980, EPA published a clarification of agency policy concerning the control of methyl chloroform and methylene chloride in ozone SIPs. (45 FR 32424). EPA explained that it cannot approve or enforce controls on either of these two compounds as part of a federally-enforceable ozone SIP because current

information indicates that neither compound is an ozone precursor. Consequently, EPA is not disapproving Virginia's exemption of methyl chloroform and methylene chloride from the definition of "non-methane."

This policy is in no way an expression of EPA's view on the desirability of controls on these compounds. States retain the authority to control these compounds under the authority reserved to them in Section 116 of the Clean Air Act. In addition, state officials and sources should be advised that there is a strong possibility of future regulatory action by EPA to control emissions of these two compounds. (See, *e.g.* Proposed New Source Performance Standards for Organic Solvent Cleaners, 45 F.R. 39766, June 11, 1980.)

8. *Inspection/Maintenance.* In the Governor's designation letter for Section 174 agencies dated March 27, 1978, he delegated the responsibility to develop I/M legislation to the State Air Pollution Study Commission created by Joint Resolution #37 of the 1978 General Assembly of Virginia. The Commission conducted numerous meetings and public hearings in the State concerning the development of an I/M program but could not decide whether a contractor or private-garage approach to I/M should be employed.

The Commission's inability to decide on an I/M approach, coupled with the fact that the Virginia Legislature does not make appropriations for capital items during the off-budget years of the biennium budget, further delayed the adoption of necessary I/M programs. The biennium budget for the Commonwealth of Virginia is approved only during the General Assembly's long session, held in even-numbered years. The Governor petitioned EPA on November 8, 1978 citing this fact and the fact that the upcoming 1979 short session would be in an off-budget (odd) year where major revenue intensive measures, such as would be required to implement any type of I/M program, cannot be considered. The Governor thus requested a one-year extension (until June 30, 1980) so that the legislative commitment to I/M can be obtained during the 1980 General Assembly Session. EPA declined the Executive Branch's request for an extension on January 3, 1979, stating that consideration of such a request was premature and that any such request must come from the co-equal Legislature. An extension request could be evaluated only after due consideration by the Legislature, a finding of insufficient opportunity to enact the necessary I/M legislation, and a confirmation of the Legislature's commitment to consider I/M legislation during the next session. When Virginia submitted its SIP revision, it included in Chapter 9 a tentative schedule of the four major urbanized nonattainment plans for the implementation of I/M for both the contractor and private-garage approaches. This schedule, however, is based on anticipated 1980 legislative authority for the program. On March 9, 1979, the Governor submitted a letter to EPA requesting reconsideration of its denial of a one-year legislative extension and enclosed as an attachment Senate Joint Resolution #118 which continues the Air Pollution Study Commission until December 1, 1979, when it was to provide its report and recommended legislation to the Governor and to the General Assembly. In compliance with EPA's requirement for a letter from the Legislature officially requesting the legislative extension, Senator Howard Anderson, Chairman of the Virginia Air Pollution Study Commission submitted on July 11, 1979 a schedule for submission of proposed I/M legislation to the Governor. This proposed legislation was submitted to the Governor on December 7, 1979 and was introduced to the Legislature on January 15, 1980. The Virginia Legislature passed an I/M bill in March, 1980 and the bill was submitted to EPA on April 8, 1980. (As noted below, EPA is not taking action on this I/M legislation in today's Notice.)

EPA believes that the July 11, 1979 submittal, along with Senate Joint Resolution #118, satisfies the three conditions cited in the July 30, 1979 notice of proposed rulemaking for approving a legislative extension request; namely, due consideration by the Legislature, a finding of insufficient opportunity to enact the necessary I/M legislation, and a confirmation of the Legislature's commitment to consider I/M legislation during the next session. Therefore, EPA approves the one-year extension requested by Virginia for adoption of the necessary I/M legislation.

The approval of this extension results in the conditional approval of the I/M portion of the Virginia nonattainment plan revision. To satisfy the condition, Virginia must submit adequate I/M legislation to EPA by July 1, 1980. Virginia has already submitted I/M legislation to EPA; however, an additional submittal is required by July 1, 1980 that must include a schedule for implementation of the program and must provide a clear commitment to implement and enforce the I/M program and to reduce emissions by 25 percent by 1987. Specifically, the SIP should include a commitment to require retesting of vehicles initially failing the annual emissions test, along with a commitment to prohibit registration or provide some equally effective mechanism to prevent vehicles not complying with applicable emission requirements from operating on public roads. Because of the requirement for an additional submittal by July 1, 1980, EPA is not taking action in today's Notice on the I/M legislation submitted by Virginia. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of this deadline.

The Commonwealth of Virginia has requested that the boundary of the urbanized area in Northern Virginia be modified to exclude Loudoun County, since this is primarily a rural area which accounts for only 5.0 percent of the light duty vehicle registrations in the Northern Virginia Region. The effect of this modification, if approved, would be to exclude Loudoun County from the requirement to implement an Inspection/Maintenance (I/M) program for motor vehicles. It would not change Loudoun County's designation, under Section 107 of the Clean Air Act, as nonattainment for ozone. EPA is proposing this modification elsewhere in today's **Federal Register.**

9. *Transportation Control Measures*—a. *Reassessment of General Evaluation of Transportation Control Measures.* Presented in this section are major comments and actions that were assessed in the General Evaluation of Transportation Control Measures section of the July 30, 1979 notice of proposed rulemaking (NPRM). The issues discussed that were designated as acceptable are not repeated here.

With the exception of the Northern Virginia area, the U.S. Department of Transportation (DOT) noted a serious discrepancy in the emissions inventory provided for the transportation control plans. Virginia's submittal of January 12, 1979 contains an updated emissions inventory different from the emissions inventory in the transportation control plans. EPA requested Virginia to clarify this issue so that EPA could conduct its final review. Another major comment made by the U.S. DOT was its concern about the relative burden to reduce emissions borne by transportation sources as compared to stationary sources.

In an August 28, 1979 response to the NPRM, Virignia responded in the following manner:

"Transportation Control Measures"—The difference in the emission inventory

contained in the transportation control plans (TCPs) and that submitted by the State is due simply to the passage of time between the 174 agency's approval of their plan and the final submittal by the State of the total plan. The 174 agencies received a copy of the emission inventory in late summer of 1978 for inclusion in their TCP. The TCP was approved by the designated agency and sent to the State to be part of the official public hearing process. However, by the time all of these actions had been completed, the inventory had been further refined and the State used the latest version in their portion of the SIP submittal. The differences in the two versions are not considered great. All 174 agencies were provided with copies of the version submitted on January 12, 1979 so that future uses of the inventory will be consistent from one group to another. U.S. DOT has expressed concern about the relative burden in emissions reductions from transportation sources compared to that for stationary sources. It should be noted that the Virginia Plan does not call for any specific amount if emissions reductions to be required from transportation sources. On the other hand, specific emissions reductions are required from stationary sources as a result of regulations adopted and being adopted by the Board. The difference between the total reductions needed for attainment and those expected from stationary sources is simply a goal to be attained. It is hoped that transportation sources will make as large a contribution toward that goal as can reasonably be attained. The State has dictated neither specific measures nor amounts of reductions required to the 174 agencies.

EPA believes that this response by Virginia adquately addresses the concerns raised in the NPRM; however, the response does raise a question about emission reduction targets for transportation sources. Firm targets for these reductions must be jointly negotiated by the SAPCB and the appropriate Metropolitan Planning Organization (MPO) or Section 174 agency, and submitted to EPA. The lack of firm targets constitutes a SIP deficiency; however, this deficiency will be handled through the Section 175 funding process as it does not represent a failure to meet Part D requirements. Section 175 funding for the appropriate 174 agencies will be conditioned on receiving a firm emission reduction target for transportation sources.

EPA requested further clarification from the Commonwealth on the commitments to implement the identified TCM's and requested public comment on the adequacy of these commitments. Following a reevaluation of the commitments made by each of the 174 agencies. EPA finds them to be acceptable.

EPA considers commitments to use available funds and grants to meet basic transportation needs, described to various degrees in the transportation components of the Virginia submittal, to be adequate at this time. Most notably, endorsements and commitments have come from some transit operating agencies including the Washington Metropolitan Area Transit Authority, the Peninsula Transportation District Commission, and the Tidewater Transportation District Commission.

The Richmond area plan describes the local commitment in terms of current efforts for improving public transportation services. EPA considers these commitments adequate at this time. However, EPA will be issuing additional requirements on basic transportation needs which may necessitate a call for future SIP revisions.

b. *Area Profiles and Evaluation.* As a result of the ozone and carbon monoxide nonattainment designations discussed in the INTRODUCTION section of this Notice, the Governor of Virginia, on March 28, 1978, designated those agencies under Section 174 of the Clean Air Act responsible for the development and implementation of transportation control measures. Under the guidance of the Virginia State Air Pollution Control Board, which is responsible for the overall SIP, as well as for planning, coordination, and general enforcement activities, the designated local agencies developed their portions of the TCP. Detailed area profiles describing the plans were presented in the NPRM and will not be repeated here. Presented here for each of the areas with transportation control requirements is EPA's evaluation of the area's TCP as distinct from the general evaluation presented in subsection a, above.

Richmond Area

The Commonwealth of Virginia requested an extension of the 1982 attainment date for ozone in Richmond based on the .08 ppm ozone standard. EPA's further evaluation (see discussion on attainment date above) indicated that even the revised .12 ppm statistical ozone standard will not be met by December 31, 1982 and thus the extension request can be approved until July 1, 1984. Approval of the extension request necessitates a schedule for implementation of an inspection and maintenance program for motor vehicles; for the implementation of currently planned transportation control measures; and for the analysis, selection, and adoption of additional appropriate transportation control measures.

The TCP for Richmond commits the Richmond Section 174 agency to the assessment of transportation measures identified in Section 108(f) of the Clean Air Act and expresses the intention of local governing bodies to pursue decisions for the "representative implementation" of recommended transportation control measures. A program for the analysis of alternative transportation measures for the 1982 SIP submittal is now being conducted through an Urban Air Quality Planning Grant made on January 28, 1980 by the Mass Transportation Administration under Section 175 of the Clean Air Act. Based on the evaluations contained in the July 30, 1979 NPRM, consideration of all public comments, and the further evaluation outlined above, EPA believes that the transportation control portion of the Virginia nonattainment plan revision for the Richmond area meets the requirements of Part D of the Clean Air Act and therefore approves the Richmond TCP as part of Virginia's SIP.

Southeastern Virginia

The Commonwealth of Virginia requested an extension of the 1982 attainment date for ozone in the independent cities of Suffolk, Portsmouth, Chesapeake, Norfolk, and Virginia Beach based on the .08 ppm ozone standard. EPA's further evaluation (see discussion on attainment date above) indicated that the revised .12 ppm statistical ozone standard will be met by December 31, 1982 and therefore the extension request is no longer necessary. This means that a 1982 SIP submittal is not required for the Southeastern Virginia area; however, transportation control measures are still required for Southeastern Virginia inasmuch as they can be considered reasonably available control measures. The TCP for this area commits the Southeastern Virginia Section 174 agency to the reassessment and local application of transportation control measures necessary for attainment, including the reasonably available measures specified in Section 108(f) of the Clean Air Act.

Based on the evaluations contained in the July 30, 1979 NPRM, consideration of all public comments, and the further evaluation outlined above, EPA believes that the transportation control portion of the Virginia nonattainment plan revision for the Southeastern Virginia area meets the requirements of Part D of the Clean Air Act and therefore approves the Southeastern Virginia TCP as a part of the Virginia SIP. EPA understands that the transportation planning process will continue in Southeastern Virginia in part as a means of assuring implementation of all reasonably available transportation control measures.

Peninsula Area

The Commonwealth of Virginia requested an extension of the 1982 attainment date for ozone in the cities of Hampton and Newport News, based on the .08 ppm ozone standard. EPA's further evaluation (see discusssion on attainment date above) indicated that the revised .12 ppm statistical standard will be met by December 31, 1982 and therefore the extension request is no longer necessary. This means that a 1982 SIP submittal is not required for the Peninsula area; however, transportation control measures are still required for the Peninsula area inasmuch as they can be considered reasonably available control measures. The TCP for this area commits the Peninsula Section 174 agency to the implementation of a ride-sharing program to further expand the already active ride-sharing concept in the Peninsula area. The plan identified nine transportation projects to which the FY 1979 Transportation Improvement Program is also committed; these also have an air quality impact. These projects include five highway widening and construction projects, three intersection improvements, and a system for synchronized traffic flow.

The plan also commits the Peninsula Section 174 agency to study and adopt additional measures necessary for attainment including those specified in Section 108(f) of the Clean Air Act as well as measures to improve land use management.

Based on the evaluations contained in the July 30, 1979 NPRM, consideration of all public comments, and the further evaluation outlined above, EPA believes that the transportation control portion of the Virginia nonattainment plan revision for the Peninsula area meets the requirements of Part D of the Clean Air Act and therefore approves the Peninsula area TCP as a part of the Virginia SIP. EPA understands that the transportation planning process will continue in the Peninsula area in part as a means of assuring implementation of all reasonably available transportation control measures.

Northern Virginia

The Commonwealth of Virginia requested an extension of the 1982 attainment date for ozone in Northern Virginia based on the .08 ppm ozone standard. EPA's further evaluation (see discussion on attainment date above) indicated that even the revised .12 ppm statistical standard will not be met by December 31, 1982 and thus the extension request can be approved until December 31, 1987. Approval of such an extension necessitates a schedule for the implementation of an inspection and maintenance program for motor vehicles; for the implementation of currently planned transportation control measures; and for the analysis, selection, and adoption of additional appropriate transportation control measures.

In preparing its plan, the Metropolitan Washington Council of Governments recommended 28 transportation measures as appropriate for consideration in the 1979 SIP submittal. These measures were selected from an initial list of 70 measures identified as having potential for reducing transportation-related emissions. COG is conducting an analysis of alternatives which will review all 70 of the measures to be considered for possible inclusion into the State Implementation Plan.

COG presented the 28 measures to the local governing bodies for endorsement and commitment actions for the 1979 plan. Fairfax City was the only jurisdiction that did not respond. A list of the measures that have received endorsement and a degree of commitment for implementation in the COG plan by one or more jurisdictions was published in the NPRM. EPA is expanding the list in this Notice to clarify and include the additional commitments made by the Virginia Department of Highways and Transportation (VDH&T) in Chapter 10 of the Northern Virginia Plan. For further clarification, the numbers of the COG commitments are shown in parenthesis:

(1) Continue Construction of Metrorail (Completion of presently committed 60 miles) (COG #1): Arlington County, City of Alexandria, City of Falls Church.

(2) Eliminate All-Day On-Street Non-Resident Parking Where Appropriate (COG #3): Arlington County, City of Alexandria, City of Falls Church.

(3) Provide Fringe Parking Lots at Selected Locations (COG #4A): VDH&T—Prince William County; VDH&T—Fairfax County.

(4) Build/Designate Exclusive Lanes for High Occupancy Vehicles (Buses, etc.—COG #6): City of Alexandria, VDH&T—Fairfax County; VDH&T—Arlington County.

(5) Reserve Convenient Parking Spaces for Carpools/Vanpools (COG #7): Arlington County.

(6) Building Additional Bicycle Lanes and Bikeways (COG #8): Arlington County, City of Alexandria, Fairfax County, City of Falls Church.

(7) Provide and Improve Regional and Local Ride-Share Activities (COG #9): City of Falls Church.

(8) Freeway Ramp Metering with Preference for High Occupany Vehicles (COG #11): VDH&T—City of Alexandria; VDH&T—Arlington County; VDH&T—Fairfax.

(9) Install Additional Bicycle Storage Facilities (COG #12): City of Falls Church.

(10) Encourage Specialized Bus Service (COG #15): Loudoun County.

(11) Include Metrobus Information With Carpool/Vanpool Information and vice versa (COG #16): City of Falls Church.

(12) Provide Additional Pedestrian Facilities and Eliminate Barriers (COG #19): Arlington County, City of Alexandria, City of Falls Church.

(13) Provide Free or Discounted Transit Rides in Off-Peak Hours (COG #22): Fairfax County.

(14) Improve Signalization in the Region (COG #23): Arlington County, City of Alexandria.

The Extent of these commitments and other actions are detailed in Appendix E of the COG plan.

Identified below are the transportation measures which were either under construction, committed for implementation, or are actively being studied by the Virginia Department of Highways and Transportation.

(1) I–66 is being constructed with provisions for Metrorail in the median between I–495 and Fairfax Drive (COG #1).

(2) Fringe parking lot construction is planned for in (COG #4A): Prince William County: Minnieville, Route 639, Route 1, Lake Ridge; Fairfax County: West Springfield.

(3) Preferential bus and high occupany vehicles lanes are to be constructed on (COG #6): Duke Street from Jordan Street Longview Drive in Alexandria; I–66 in Fairfax and Arlington Counties.

(4) Preferential bus and high occupany vehicle lanes are planned to be completed at: Four Mile Run Bridge on Route 50 in Arlington; Carlyn Springs Road interchange at Route 50 in Arlington.

(5) Planned bike construction projects (COG #8): A bikeway is to be constructed in the Route 1 corridor between the entrance to Fort Belvoir and the north intersection of Route 235 in Fairfax; A bikeway is to be constructed in the Gallows Road corridor from Routes 29/211 to Route 7 in Fairfax.

(6) Freeway ramp metering is to be studied for feasibility on (COG #11): I–395 in Fairfax, Alexandria and Arlington; I–66 from I–495 to Rosslyn in Arlington and Fairfax.

(7) Sidewalks are to be constructed on various projects in the area (COG #19): A pedestrian overpass is to be

constructed over I–66 in Rosslyn in Arlington.

(8) A computerized traffic signal system will be studied and implemented in the City of Alexandria and Arlington County (COG #23).

The above should serve to clarify any confusion that may have arisen over SIP commitments in the Northern Virginia area. The scope of projects and actions behind the local government commitments are detailed in Appendix "E Documentation of Air Quality Control Measure Actions" of the COG plan, and Chapter 10 of the plan for Northern Virginia.

Conclusion: Based on the evaluations contained in the July 30, 1979 NPRM, consideration of all public comments, and the further evaluation outlined above, EPA believes that the transportation control portion of the Virginia nonattainment plan revision for the Northern Virginia area for ozone meets the requirements of Part D of the Clean Air Act and therefore approves the Northern Virginia TCP for ozone as part of Virginia's SIP.

c. *Conformity Commitment Requirement.* A deficiency in the TCM portion of Virginia's SIP common to all four areas is that the plans failed to provide criteria and procedures for determining consistency/conformity of transportation projects, programs and plans with the SIP.

In the absence of specific federal guidance, EPA encourages each designated lead agency and appropriate metropolitan planning organization (MPO) where different from the lead agency, to develop and adopt such criteria and procedures. At a minimum, however, each lead agency (and MPO) in response to Section 176(c) of the Act must affirm its (their) commitment not to approve any project, program, or plan which does not conform to the plan being approved (or conditionally approved) today.

The MPO's and lead agencies in each area have agreed to adopt this commitment, and Virginia has agreed to endorse the commitments; therefore, EPA conditionally approves the transportation SIP element based on the condition that this commitment is to be adopted by each designated lead agency and MPO in the Northern Virginia, Richmond, Peninsula, and Southeastern Virginia areas. The commitments are to be adopted, endorsed by Virginia, and submitted to EPA by September 30, 1980. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of this deadline.

10. *Enforceability.* Numerous deficiencies were noted in the July 30, 1979 **Federal Register** dealing with enforceability of the VOC regulations. Virginia has remedied many of these but a few remain deficient.

One of the deficiencies noted in the proposed rulemaking was Virginia's "bubble" regulation, Section 4.55(b). EPA believes this regulation is not specific nor clear enough to be adequately enforceable. Virginia stated in an August 28, 1979 letter to EPA that its "bubble concept" provision will be redone upon promulgation of final EPA guidelines on the subject. The Commonwealth, however, has chosen to retain section 4.55(b) in the ozone SIP. Therefore, EPA disapproves Virginia's current "bubble" regulation in Section 4.55(b). Since this regulation does not relate to any Part D requirement, this disapproval does not require the disapproval of the nonattainment plan revision. It should be noted that a final EPA policy statement on the "bubble" concept appeared in the **Federal Register** on December 11, 1979, 44 Fed. Reg. 71780.

A comment on the Virginia ozone SIP received by EPA during the public comment period following the notice of proposed rulemaking challenged, on several grounds, Virginia's permit program for major stationary sources located in nonattainment areas, as required by Sections 172(b)(6), 172(b)(11)(A), and 173 of the Clean Air Act. A discussion of each of the issues raised and EPA's response to each of them is contained in the Public Comments section below. One of the comments raised concerns about the definition of reasonable further progress (RFP). EPA agrees with the commenter that the definition is deficient.

Virginia has agreed to remedy the remaining enforceability deficiencies according to the following schedule, which is proposed elsewhere in today's **Federal Register**:

(1) Not later than September 30, 1980, Virginia must submit revised draft regulations that remedy the remaining deficiencies noted below.

(2) Not later than November 30, 1980, Virginia must submit final regulations correcting these deficiencies.

The enforceability deficiencies that must be corrected according to the above schedule are given in (a) and (b) below:

(a) Test methods adequate to determine compliance with the emission limitations contained in Sections 4.54, 4.55, 4.56 and 4.57 must be developed.

(b) The definition of reasonable further progress (RFP) must be changed to require attainment by the applicable date for each nonattainment area.

Virginia has agreed to remedy these deficiencies; therefore, EPA conditionally approves the enforceability portion of the Virginia SIP based on Virginia's meeting the above schedule for all of the enforceability deficiencies. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of the schedule.

The following deficiencies ((c) through (j)) in the enforceability of the Virginia regulations have been corrected by subsequent SIP revisions:

(c) In the proposed SIP revision, Virginia included a provision for repealing Section 4.52 of the VOC regulations. It is contrary to EPA policy to approve the deletion of existing regulations while a source is moving toward compliance with new regulations. Existing regulations are to remain in effect and enforceable. Virginia, in its September 24, 1979 SIP revision, has deleted the provision calling for the repeal of Section 4.52.

(d) Virginia has not supplied an adequate definition of "minor significance" as it relates to the exemption from new source permit requirements contained in Section 2.33(g)(1)(vi). In its September 7, 1979 submittal Virginia replaced the phrase "of minor significance" with the phrase "which have a potential to emit less than one ton per year." This is acceptable.

(e) In the September 24, 1979 SIP revision, Virginia has deleted the wording allowing oral consent agreements. This satisfies the concern raised in the notice of proposed rulemaking.

(f) In Section 2.33(f)(3), Virginia did not require all new sources subject to NSPS to be tested. Virginia remedied this deficiency in its September 24, 1979 SIP revision. As a result of a comment made by an environmental group during the public comment period, EPA wishes to note that it has the authority to require any source to perform an emissions test under Section 114 of the Act, whether or not that source has been granted a waiver under Virginia regulation 2.33(f)(3).

(g) Virginia, in its September 24, 1979 revision, has remedied the wording deficiency concern the clause "will be considered acceptable compliance by the Board."

(h) In the proposed rulemaking EPA noted deficiencies in the definition of "consent order". On September 24, 1979 Virginia submitted a SIP revision which included a definition of "Delayed Compliance Order." While acceptable, EPA notes that any Delay Compliance Order (DCO) issued in accordance with Section 113(d) of the Clean Air Act must be submitted to EPA for approval before

becoming federally enforceable; furthermore, all applicable requirements of Section 113(d) must be satisfied before any DCO can be approved.

(i) Categorical compliance schedules were added as a new Appendix N in the September 24, 1979 submittal which are implemented through the provisions of Sections 4.02(f)(1) through 4.02(f)(5). This satisfies the concern raised by EPA in the notice of proposed rulemaking.

(j) A revised definition of "nonattainment areas" was submitted with the September 24, 1979 submittal. This revised definition is acceptable.

EPA therefore approves the following portions of Virginia's later submittals:

September 7, 1979: Section 2.33(g)(1)(vi) of the Regulations.

September 24, 1979: Sections 4.52(a), 2.03(a)(1), 2.33(f)(3), Part I, definitions of "Delayed Compliance Order" and, "Nonattainment Area", 4.02(f)(1) through 4.02(f)(5), Appendix N, and those portions of Sections 4.54, 4.55, and 4.56 where the phrase "will be considered acceptable compliance by the Board" has been modified.

These portions of the later submittals remedy noted deficiencies in the nonattainment plan. Rulemaking on the balance of the September 7 and 24, 1979 submittals will take place in the near future.

In the notice of proposed rulemaking EPA stated that Section 2.33(c)(1)(ii) needs further clarification. Following a more detailed review of the information required for new sources EPA has concluded that this section is adequate. The Virginia State Air Pollution Control Board (VSAPCB) permit forms, that must be completed as part of a permit application, provide ample information to make the required determinations. Also in the notice of proposed rulemaking EPA noted that the definition of "vapor tight" should be expressed in terms of positive pressure as well as negative pressure. While this is still a requirement for Round II CTG's, it will be dealt with in future rulemaking on Virginia's December 18, 1979 submittal and is no longer considered a deficiency of the January 12, 1979 submittal.

11. *State Commitments to Comply With Schedules.* As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs, such as Virginia's, includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978 ("Round I CTGs") and schedules to adopt and submit by each future January additional RACT requirements for sources covered by CTGs issued by the previous January. The submittal date for the first set of additional RACT regulations ("Round II CTGs") was revised from January 1, 1980 to July 1, 1980 by a **Federal Register** notice of August 28, 1979, 44 FR 50371. Virginia has already submitted a SIP revision implementing Round II CTGs, on December 18, 1979. Today's approval of the ozone portion of Virginia's plan is contingent on the following: By each subsequent January beginning January 1, 1981, RACT requirements for sources covered by CTGs published by the preceding January must be adopted and submitted to EPA. This requirement is set forth in the "Approval Status" section of the final rule. If RACT requirements are not adopted and submitted to EPA according to the time frame set forth in the rule, EPA will promptly take appropriate remedial action.

B. Carbon Monoxide

For the carbon monoxide nonattainment areas in Northern Virginia consisting of Arlington County, the City of Alexandria, and portions of Fairfax County, the Commonwealth has indicated that, by using a region-wide analysis of carbon monoxide emissions, the nonattainment areas will be in attainment by 1982. However, EPA requested both by letter dated April 11, 1979 and in the July 30, 1979 NPRM that the Commonwealth reassess this analysis using a localized analysis for carbon monoxide "hot spots". The analysis which had been provided did not include"hot spot" sites together with appropriate transportation control measures at those sites, nor did it agree with the conclusions of the carbon monoxide "hot spot" analysis performed by the Metropolitan Washington Council of Governments.

EPA requested Virginia to clarify the rationale for determining the carbon monoxide design value and to perform an analysis of all "hot spot" sites that conclusively demonstrates the attainment/nonattainment status by 1982. EPA also requested that Virginia construct a line of reasonable further progress (RFP) showing annual incremental reductions for carbon monoxide and submit it with the "hot spot" analysis. Virginia has stated to EPA that this work is being performed by a contractor and has agreed to remedy the noted deficiency. Therefore EPA conditionally approves the carbon monoxide portion of the Virginia nonattainment SIP based on the submittal of a hot spot analysis and RFP line. These items are to be submitted no later than September 30, 1980. The attainment date for carbon monoxide in the nonattainment portions of Northern Virginia is December 31, 1982. If the hot spot analysis shows that the standard cannot be attained by that date, an extension request will be considered when the analysis is submitted. Since an extension until 1987 for attainment of the ozone standard is being approved in this Notice and Virginia has met or is moving towards meeting all requirements for approval of an extension request, EPA believes that it is appropriate to conditionally approve the carbon monoxide portion of the Virginia SIP.

Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of the September 30, 1980 deadline for the submittal of the carbon monoxide hot spot analysis and RFP line.

IV. Public Comments on Proposal

In response to the call for public comments in the July 30, 1979 notice of proposed rulemaking for the Virginia nonattainment plan revision, EPA received comments from an automobile manufacturer, a national environmental group, and two State agencies: The Virginia State Air Pollution Control Board (VSAPCB) and the New Jersey Department of Environmental Protection (NJDEP). In addition, another national environmental group co-authored comments with a local environmental group based in the Norfolk, Virginia area.

In addition to these comments specific to the Virginia nonattainment plan revision, EPA received comments from three organizations who requested that their comments be considered with respect to each State's nonattainment plan revision. EPA's responses to the issues raised by these commenters are incorporated herein by reference to the final rulemaking notice that announced EPA's decision regarding the Delaware nonattainment plan revision, 45 FR 14551 (1979). The responses can be found in the section of the Delaware Notice entitled "PUBLIC COMMENTS ON PROPOSAL, (1) National Comments." Complete responses to all three national comments can be found in the Rationale Document referred to at the end of this section.

Due to the large number of comments received, only a summary of the major issues raised and EPA's response is included here. A complete list of all comments and responses can be found in the Rationale Document referenced below. EPA considered all of the comments in making its final decision on

the Virginia nonattainment plan revision.

Summary of Major Issues and EPA Responses

1. Transportation Control Measures. One commenter claimed that transportation control measures have been rejected in the Northern Virginia Plan. No measures have been rejected in the Northern Virginia Plan. The Washington Council of Governments (COG) is reconsidering all 70 measures in the analysis being performed for the 1982 SIP. While the municipalities and counties of Northern Virginia may have deferred commitments on some of the 28 transportation measures COG recommended for the 1979 SIP, they have not been rejected.

The commenter further claimed that the Northern Virginia plan fails to identify other measures necessary for attainment as required by Section 172(b)(11)(C). EPA has carefully examined the Northern Virginia Plan and has concluded that this requirement has been met by inclusion in Chapter IV of COG's plan of a tentative scope and schedule for alternatives analysis.

The commenter also asserted that the Northern Virginia plan that EPA proposed for final rulemaking does not consider nor even mention the requirements to "establish, expand or improve basic transportation needs (BTN) as expeditiously as practicable" and that such BTN plans shall include requirements to use, insofar as necessary, Federal, local and State grants to meet this requirement.

EPA believes that the Northern Virginia plan meets the BTN requirement by, among other things, the inclusion of commitments to metrorail construction expressed by the Washington Metropolitan Area Transit Authority (WMATA) and by the fact that the Washington, D.C. region has been the first region in the country to withdraw uncompleted portions of programmed Interstate Highway Systems and divert the monies for those systems into mass transit alternatives. Additionaly, alterntives to financing Metrorail in Northern Virginia are being considered by the 1980 session of the Virginia Legislature.

2. Inspection and Maintenance (I/M). Several of the commenters supported EPA's identification of basic deficiencies in the I/M portion of Virginia's nonattainment plan revision. Briefly, the deficiencies consist of a lack of a firm commitment on the part of the Commonwealth to consider I/M legislation, lack of a schedule for I/M implementation and the lack of a commitment to achieve a 25% reduction in emissions by 1987. EPA agrees with the comment and is conditionally approving the nonattainment plan revision based on granting an extension until July 1, 1980 for submittal of I/M legislation. The appropriate commitments must be submitted along with the legislation. As noted, above, Virginia submitted I/M legislation to EPA on April 8, 1980.

3. SIP requirements not contained in Part D. Several commenters noted that Virginia did not include regulations implementing certain Sections of the Clean Air Act that are not contained in Part D of the Act. EPA's position on this issue is that the subject sections will be the subject of a future Federal Register notice but that failure to implement them at the present has no bearing on the approvability of a nonattainment plan revision.

4. Reasonable Further Progress. The comment was made that the Northern Virginia plan does not provide for adquate Reasonable Further Progress. The commenter recommended that the "objective" line on page 3.5 of the Northern Virginia plan should be revised and identified as the RFP line.

A linear RFP projection is acceptable provided attainment of the NAAQS is achieved by 1987. Also, EPA agrees that the "objective" line in Virginia's plan is the RFP line.

5. RACT as expeditiously as practicable. One commenter, an automobile manufacturer, contended that Virginia's proposed VOC regulations for its Norfolk, Virginia plant constitute RACT even though they are not as stringest as those recommended by EPA. Material was provided by the Company to support this conclusion.

EPA's position on the relationship of the CTG's to the RACT requirement is spelled out in the Federal Register notice of September 17, 1979, 44 FR 53761. To summarize this position, a justification for incorporating a regulation less stringest than the recommended RACT can be approved by EPA on a case-by-case basis. In the present case, EPA's evaluation of the material submitted to date shows that this justification cannot be supported. This has resulted in the conditional approval of the Virginia SIP as noted earlier.

6. Common design value for Northern Virginia. A commenter questioned Virginia's use of 0.185 ppm as a design value for the ozone concentration in Northern Virginia, since the Metropolitan Washington Council of Governments (COG) had determined the appropriate design value for the National Capital AQCR to be 0.225 ppm. COG's value was determined as the highest second-high ozone concentration in the AQCR during the last three years, which was the recommended technique prior to February 8, 1979, when the primary and secondary air quality standards for photochemical oxidants were revised (44 FR 8202). At that time, a statistical method was established for determining the "expected" second highest ozone concentration. Using the statistical approach, the Council of Governments determined the design value to be 0.192 ppm. This value has since been accepted by Virginia as the appropriate design value for Northern Virginia and has been used in the demonstration for Northern Virginia contained in the Commonwealth's December 18, 1979 submittal.

7. New Source Review. One commenter noted that the permitting program contained in the Virginia nonattainment plan revision for major sources proposing to locate in nonattainment areas, as required by Section 172(b)(6) of the Act, is deficient in several areas. A summary of the issues and EPA's response to each is given below.

a. The definition of lowest achievable emission rate (LAER) is inadequate in that the definition does not provide specifically that the application of LAER will not allow a new source to emit any pollutant in excess of the amount allowable under an applicable new source performance standard (NSPS).

While Virginia's definition of LAER does not, as pointed out, contain this specific provision, EPA believes that Virginia's regulations as a whole do not exempt any source from meeting any applicable NSPS, and therefore are consistent with Section 171(3) of the Clean Air Act.

b. The definition of reasonable further progress is inadequate in that no definite dates are established by which progress must be made.

EPA agrees that the applicable attainment dates should be reflected in the definition of reasonable further progress. Virginia has agreed to add a reference to these dates, which has resulted in the conditional approval of the nonattainment plan revision (see discussion on this conditional approval above, Section III.10(b)).

c. The apparently unlimited right to a variance from permit requirements is not consistent with the mandate of Section 173 of the Act.

EPA considers a variance to any applicable SIP requirement as a revision to the SIP, and therefore requires Virginia to submit these variances for review and processing as a SIP revision. This, in turn, requires that a variance be consistent with the Clean Air Act, i.e., that an air quality demonstration must

accompany the variance, it can be issued only after public notice and hearing, etc. EPA continues to require that variances be submitted for processing as a SIP revision, and that a variance from any permit condition be treated in the same manner. Thus, the right to a variance is by no means unlimited and its issuance can only be accomplished if it is consistent with the requirements of the Clean Air Act.

d. The Virginia regulations do not require offsets to be legally binding prior to operation of the new source.

EPA's review of the permit requirements for new major stationary sources in nonattainment areas contained in the Virginia SIP indicates that there are provisions for making the offsets legally binding, i.e., any source required to reduce emissions in order to provide an offset will be required to meet the lower emission rate as a legally binding permit condition or revised emission limitation. Furthermore, any revised permit/emission limitation for a third party offset must be submitted to EPA as a SIP revision in order to become enforceable under Federal law. The effect of this will be to have an enforceable emission limitation for both the new source and any existing source(s) from which offsets were obtained. That this is, in fact, the way in which the offset provision will work has been confirmed by discussions with VSAPCB staff and by letter dated April 15, 1980. EPA wishes to emphasize that approval of the new source review element of the SIP is based on this interpretation of the offset regulation and that any deviation from this interpretation (as, for example, a case where an offset obtained from a third party is not directly enforceable against that third party) will not be acceptable.

e. The SIP submission contains no explanation of how Virginia will administer the offset program and no specification of what information must be submitted to support a permit application.

A specific explanation of how a program will be administered, and a detailed explanation of the required information for new sources, are not requirements of the Clean Air Act. Virginia has committed adequate resources to carry out the programs described in the SIP, and EPA has no reason to suspect that any of the programs will be administered improperly. As for information required for new sources, Section 2.33(c) of Virginia's regulations adequately addresses this question. In particular, Section 2.33(c)(1)(i) requires that applicable permit forms be filled out. It has been EPA's experience that the forms used by Virginia provide ample information to make the required determinations.

f. The scope of the required review and analysis in Regulation 2.33(k) is far more limited than required by Sections 173 and 172(b)(11) of the Act.

Section 2.33(k) of Virginia's regulation is not intended to meet the requirements for new source review contained in the above-referenced sections of the Act. EPA refers the commenter to Section 2.33(d)(6) of Virginia's regulations which deal with the permit requirements for major stationary sources locating in nonattainment areas.

g. The possible waiver of the testing requirement in Section 2.33(f)(3) for new sources should not be allowed.

In the July 30, 1979 notice of proposed rulemaking, EPA indicated that this possible waiver must be eliminated for sources that are subject to new source performance standards (NSPS). Virginia's September 24, 1979 submittal eliminated the exemption for sources subject to NSPS, which resulted in the conditional approval of this SIP element as noted above. Since granting this waiver would not change any emission limitation that a new source is required to meet, EPA believes that it is not necessary to require the elimination of the waiver provision for sources not covered by NSPS. However, EPA also believes that for most new sources an emissions test is desirable. As a result of the comment, therefore, EPA wishes to make the comment that it has the authority to require any source to perform an emissions test under Section 114 of the Act, whether or not that source has been granted a waiver under Virginia's regulation 2.33(f)(3). The source is still obligated to meet the established emission rate.

h. Oral consent agreements should not be allowed. Virginia has eliminated the reference to oral consent agreements in its September 24, 1979 submittal which has resulted in the conditional approval of the nonattainment plan revision (see the discussion on this conditional approval above, Section III. 10(e)).

8. Commonwealth of Virginia Comments. On August 28, 1979, Virginia submitted extensive comments on EPA's July 30, 1979 notice of proposed rulemaking. Most of the comments dealt with Virginia's response to the deficiencies noted by EPA, and thus responses to most of the comments can be found in the Deficiencies and Remedies section of this Notice. Two issues raised by Virginia are not treated in that section and are thus presented below.

a. Virginia challenged EPA's authority to issue conditional approvals and requested that the Commonwealth be provided with a clear definition of this authority; furthermore, Virginia requested full approval of the Virginia nonattainment plan revision.

EPA's position on conditional approval is explained in **Federal Register** publications dated July 2, 1979, 44 FR 38583, and November 23, 1979, 44 FR 67182. In brief, EPA believes that where a SIP substantially complies with the requirements of Section 172(b), EPA has inherent authority under Section 110(a)(2) and Section 110(a)(3) to approve a SIP on the condition that the State corrects the remaining relatively minor deficiencies in a short period of time. The only available alternative would be to disapprove the SIP and thus invoke the construction moratorium. The construction moratorium was designed by Congress to protect air quality when the State lacks a plan that adequately assures attainment and maintenance of ambient standards. That purpose would not be served when the State plan substantially assures attainment and when remaining deficiencies will be promptly corrected. On the other hand, EPA must assure that all requirements of the Clean Air Act are met. EPA therefore interprets the Act to permit a conditional approval under these circumstances.

In addition, conditional approval is consistent with Section 110(c)(1)(C). That subsection requires the Administrator to promulgate regulations for a State if "the State fails, within 60 days after notification by the Administrator or such later period as he may prescribe, to revise an implementation plan as required pursuant to a provision of its plan referred to in subsection (a)(2)(H)." When the Administrator grants conditional approval, he is essentially notifying the State that further revisions are required to make the plan or regulations fully approvable. If the State fails to satisfy the Administrator's conditions, the Administrator will disapprove the plan or regulations and may then promulgate regulations to correct the deficiency. The State is simply offered the option of correcting the inadequacies itself.

Because the Virginia SIP still contains certain deficiencies, EPA cannot fully approve the SIP at this time.

b. Virginia objected to EPA's incorporation by reference in the July 30, 1979 proposal of an April 4, 1979 **Federal Register** notice entitled "General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas." Virginia claims that this material did not meet the requirements of the Administrative

Procedures Act, was not the subject of public hearings in Virginia, and could be construed as "piggybacking" on the Virginia SIP since the material was published three months after Virginia submitted its plan.

EPA believes that Virginia's objections are not supportable. The General Preamble contains a complete description of the general criteria EPA uses to decide whether a SIP meets the requirements of Part D. Notice and comment on these criteria is not necessary because the criteria merely are proposals—interested persons were specifically invited to comment on the validity of the criteria and on the application of those criteria to each SIP in the context of each EPA approval/disapproval rulemaking. Hearings in Virginia also were not necessary, since the hearing requirement of Section 110(a)(2) refers to hearings on the *State* plan, not the federal criteria. Finally, EPA did not intend to "piggyback" the General Preamble on the Virginia SIP; EPA merely announced its criteria so that the public, and Virginia, could comment on them. In this context, it should be noted that many of these criteria were previously published on May 19, 1978, 43 FR 21073.

9. Comments from the State of New Jersey. The Department of Environmental Protection of the State of New Jersey (NJDEP) made a number of comments on Virginia's ozone SIP. In summary, the major issues raised deal with transport (that the influx of ozone precursors from attainment and unclassifiable areas significantly affects New Jersey and therefore control measures should be applied statewide and not just in nonattainment areas); unclassifiable areas (rural areas in Virginia have improperly been designated as unclassifiable); and equity (lax nonattainment designations in Virginia and other States place an undue burden on New Jersey).

The Administrator considered all of New Jersey's objections to the designations and responded in the document entitled "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassified, and Nonattainment Areas for Ozone" January 1979. Availability of this document was announced in the February 1, 1979 **Federal Register** (44 FR 6395). This document and the Administrator's response to New Jersey's comments are incorporated herein by reference. Since Virginia has applied RACT to the CTG sources in the urban nonattainment areas and certified that there are no 100 ton sources to which the CTG's apply in the rural nonattainment areas, Virginia has satisfied the Part D requirements for the ozone SIP and there is no basis for disapproval.

EPA encourages anyone interested in a more complete and thorough discussion of the public comments and EPA's responses to consult the Rationale Document prepared by the Agency for the conditional approval of the Virginia nonattainment plan revision which is available for public inspection at the locations identified in the Addresses section of this notice. The Rationale Document contains a complete discussion of the comments received and EPA's response to them.

V. EPA Actions

In accordance with the procedures described in the "Introduction" Section of this Notice, EPA conditionally approves the nonattainment SIP revision submitted by Virginia for the Roanoke, Stafford County, Richmond, Peninsula, Southeastern Virginia and Northern Virginia nonattainment areas. Those portions of the plan upon which no conditions have been placed are granted final approval and are effective immediately.

The State has committed to satisfying all of the required conditions by the dates outlined below, which are proposed elsewhere in today's **Federal Register**. The Virginia nonattainment plan revision may be considered for full approval if the following actions are taken by the dates specified. It should be noted that the actions are required for *each* nonattainment area unless specifically noted otherwise.

A. Virginia's Submissions Remedying Noted Deficiencies

As described above in the Deficiencies and Remedies section, Virginia submitted plan revisions on September 7, September 24, and December 18, 1979 intended, among other things, to remedy a number of deficiencies noted in EPA's July 30, 1979 notice of proposed rulemaking.

Those portions of the later submittals that remedy noted deficiencies are hereby approved, and are listed below:

1. September 7, 1979 SIP submittal:

(a) Section 2.33(g)(1)(vi) of the regulations, the exemption of sources with a potential to emit less than one ton per year.

2. September 24, 1979 SIP submittal:

(a) Section 4.57(b)(2)(ii) of the regulations, relating to an exemption from the cutback asphalt requirement.

(b) Section 4.55(f)(4)(i) of the regulations, relating to the emission limitation for end sealing compound coating of cans.

(c) Section 4.56(e) of the regulations, relating to bulk plant vapor control requirements.

(d) Section 4.52(a) of the regulations, deleting the provision for repeal of Section 4.52.

(e) Section 2.03(a)(1) of the regulations, deletion of the wording allowing oral consent agreements.

(f) Section 2.33(f)(3) of the regulations, deleting the source testing waiver for sources subject to NSPS.

(g) Modification of the phrase "will be considered acceptable compliance by the Board" as it appears in Sections 4.54, 4.55 and 4.56 of the regulations.

(h) Part I of the regulations, the definition of "Delayed Compliance Order".

(i) Sections 4.02(f)(1) through 4.02(f)(5) and Appendix N of the regulations, categorical compliance schedules for sources of volatile organic compounds.

(j) Part I of the regulations, the modified definition of "nonattainment area."

3. December 18, 1979 SIP submittal:

(a) Chapter 3, Control Strategy Demonstration, design value for Northern Virginia.

B. Noted Deficiencies That Have Not Been Remedied

1. Margin for Growth. A system for tracking emissions growth is to be submitted by September 30, 1980.

2. RACT as expeditiously as practicable. The RACT deficiencies are to be remedied according to the following schedule:

- Not later than September 30, 1980: Adequate justification or draft revised regulations are to be submitted.
- Not later than November 30, 1980: Final regulations, where applicable, are to be submitted.

The following regulations contain RACT deficiencies that must be remedied:

a. The emission limitation on automobile and light duty truck coating in Section 4.55(e)(2).

b. The exemption from Stage I vapor controls for gasoline service stations with a throughput of less than 20,000 gallons per month, contained in Section 4.56(d)(3)(ii) (For Richmond only).

c. The general exemption for sources of VOC emissions contained in Section 4.54(a)(4)(i), as it applies to Section 4.54(c) dealing with Solvent Metal Cleaning (For Richmond and Northern Virginia only).

d. The regulations covering cutback asphalt paving in Section 4.57(b) must be remedied to correct two deficiencies:

(i) The maximum allowable solvent content of emulsified asphalt of 15 percent is not RACT.

(ii) Allowing the use of cutback asphalt as a tack coat is not allowed under RACT.

3. Inspection and Maintenance (I/M). Adequate I/M legislation is to be submitted by July 1, 1980. The SIP must include, as a minimum, a schedule for implementation of the I/M program and a clear commitment to implement and enforce the program and to reduce emissions by 25% by 1987. Specifically, the SIP should include a commitment to require retesting of vehicles initially failing the annual emissions test, along with a commitment to prohibit registration or provide some equally effective mechanism to prevent vehicles not complying with applicable emission requirements from operating on public roads.

3. Enforceability. a. Acceptable test methods and procedures for determining compliance with Sections 4.54, 4.55, 4.56 and 4.57 are to be submitted by September 30, 1980.

b. An acceptable definition of "reasonable further progress" must be submitted by September 30, 1980.

5. Conformity Requirement. Commitments must be adopted by each lead agency and MPO in the Northern Virginia, Richmond, Peninsula, and Southeastern Virginia areas that no project, program, or plan will be approved that does not conform with the SIP. These commitments must be adopted by the designated lead agencies and MPOs, be endorsed by the State, and be submitted to EPA by September 30, 1980.

6. Carbon Monoxide. A "hot spot" analysis for carbon monoxide, as well as a line of reasonable further progress is to be submitted for the carbon monoxide nonattainment areas by September 30, 1980.

C. Other Actions Being Taken by EPA

1. Virginia's request for an extension for attainment of the ozone standard for the Richmond and Northern Virginia nonattainment areas is approved. Attainment of the .12 ozone standard must be achieved in the Northern Virginia and Richmond areas by December 31, 1987. The request for an extension for attainment of the ozone standard is no longer necessary for all other nonattainment areas in Virginia, and therefore attainment of the .12 ppm ozone standard must be achieved in these other areas by December 31, 1982.

2. The portions of the Virginia nonattainment plan revision dealing with implementation of the "bubble" concept, namely Section 4.55(b), are not adequately enforceable and are therefore disapproved. Since implementation of this concept is not a Part D requirement, disapproval of Section 4.55(b) does not require the disapproval of Virginia's nonattainment plan revision.

3. EPA hereby approves Section 2.33 as submitted on the dates shown below:

	Submittal date	Date of proposed rulemaking
Section 2.33:		
(a) General	Jan. 12, 1979	July 30, 1979.
(b) Applications	Aug. 14, 1975	Nov. 19, 1975.
(c) Information Required.	Jan. 12, 1979	July 30, 1979.
(d) Standards/ Conditions for Granting Permits.	Jan. 12, 1979	July 30, 1979.
(e) Action on Permit Application.	Jan. 12, 1979	July 30, 1979.
(f) Emission Testing for Stationary Sources.	Jan. 12, 1979 Sept. 7, 1979	July 30, 1979. July 10, 1979
(g) Exceptions	Jan. 12, 1979 Sept. 7, 1979	July 30, 1979. July 30, 1979
(h) Revocation of Permit.	Aug. 31, 1977	June 8, 1978.
(i) Existence of Permit No Defense.	Aug. 14, 1975	Nov. 19, 1975.
(k) Application Review and Analysis.	Jan. 12, 1979	July 30, 1979.

Federal Register Citations:

November 19, 1975: 40 FR 53595

June 8, 1978: 43 FR 24858

July 30, 1979: 44 FR 44564

Sections 2.33(j) and (i) relate only to Indirect Sources and have not been submitted to EPA for consideration as SIP revisions.

4. Finally, EPA is taking no action in this notice for the Smyth County nonattainment area, which is currently being considered for redesignation to attainment due to the recent change in the NAAQS for ozone to .12 ppm. Until this redesignation undergoes Final Rulemaking, the SIP for Smyth County will not be approve.

EPA finds that good cause exists for making this action immediately effective. EPA has a responsibility to take final action on these revisions as soon as possible in order to lift growth restrictions in those areas for which Virginia has submitted adequate plans in accordance with Part D requirements.

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. 7401–642)

Dated: August 6, 1980.

Douglas M. Costle,

Administrator.

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. In Section 52.2420, paragraphs (c)(27) and (c)(28) are added as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(27) On January 12, 1979 the Governor submitted the nonattainment area plans for Virginia with respect to ozone and carbon monoxide. On September 7, September 24, and December 18, 1979, the Governor submitted SIP revisions intended in part to remedy deficiencies in the nonattainment area plans.

(28) On August 14, 1975, August 31, 1977, January 12, 1979, September 7, 1979 and September 24, 1979 the Governor submitted SIP revisions relative to § 2.33 of the Virginia Regulations.

2. In § 52.2422 paragraph (c) is added as follows:

§ 52.2422 Extensions.

* * * * *

(c) The Administrator hereby extends to December 31, 1987 the attainment date for ozone in the Virginia portion of the National Capital Interstate AQCR and in the Richmond City, Chesterfield County and Henrico County portions of the State Capital Intrastate AQCR.

3. In § 52.2423, paragraphs (c), (d), (e) and (f) are added as follows:

§ 52.2423 Approval status.

* * * * *

(c) With the exceptions set forth in this subpart, the Administrator approves Virginia's plan for the attainment and maintenance of national standards under Section 110 of the Clean Air Act. Furthermore, the Administrator finds that the plan satisfies all requirements of Part D, Title 1, of the Clean Air Act as amended in 1977, except as noted below in § 52.2431. In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal, by each subsequent January following January 1980, of additional RACT requirements for sources covered by CTGs issued by the previous January.

(d) The following portions of Virginia's September 7, September 24, and December 18, 1979 submittals are approved:

(1) September 7, 1979 submittal: Section 2.33(g)(1)(vi) of the regulations.

(2) September 24, 1979 submittal, the following Sections of Virginia's

regulations: Sections 4.57(b)(2)(ii); 4.55(f)(4)(i); 4.56(e); 4.52(a); 2.03(a)(1); 2.33(f)(3); Part I of the regulations, the definitions of "Delayed Compliance Order" and "Nonattainment Area;" Sections 4.02(f)(1) through 4.02(f)(5); Appendix N; and those portions of Sections 4.54, 4.55 and 4.56 where the phrase "will be considered acceptable compliance by the Board" has been modified.

(3) December 18, 1979 submittal: Chapter 3, Control Strategy Demonstration, design value for Northern Virginia.

(e) The portion of the January 12, 1979 SIP submittal pertaining to Smyth County is not approved, pending a possible redesignation of the area to attainment status.

(f) The following portions of Virginia's August 14, 1975, August 31, 1977 and January 12, 1979 submittals as they relate to Section 2.33 are approved:

(1) August 14, 1975 submittal: Sections 2.33(b) and (i).

(2) August 31, 1977 submittal: Section 2.33(h).

(3) January 12, 1979 submittal: Sections 2.33 (a), (c), (d), (e), (f), (g) and (k).

4. Section 52.2429 is revised as follows:

§ 52.2429 Attainment dates for National Standards.

* * * * *

Air quality control region	Pollutant						
	Particulate matter		Sulfur dioxides		Nitrogen oxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Eastern Tennessee-Southwestern Virginia Interstate.	a	a	b	b	e	e	e
Valley of Virginia Intrastate:							
a. Roanoke County, Roanoke City and Salem City.	a	a	e	e	e	e	[1]f
b. Remainder of AQCR	a	a	e	e	e	e	e
Central Virginia Intrastate	a	a	e	e	e	e	e
Northeastern Virginia Intrastate:							
a. Stafford County	a	a	e	e	e	e	[1]f
b. Remainder of AQCR	a	a	e	e	e	e	e
State Capital Intrastate:							
a. Richmond City, Henrico County, and Chesterfield County.	a	c	e	e	e	e	[3]g
b. Remainder of AQCR	a	c	e	e	e	e	e
Hampton Roads Intrastate:							
a. Cities of Chesapeake, Norfolk, Portsmouth, Suffolk, Virginia Beach, Newport News, and Hampton.	a	a	d	b	e	e	[2]f
b. Remainder of AQCR	a	a	d	b	e	e	e
National Capital Interstate:							
a. Alexandria, Arlington City, and areas of high traffic density in Fairfax County.	a	a	b	b	e	[2]f	[3]g
b. Remainder of AQCR	a	a	b	b	d	d	[3]g

NOTE.—Dates or footnotes which are italicized are prescribed by the Administrator because the plan did not provide a specific date or the date provided was unacceptable.

a. June 1975.
b. June 1972.
c. July 1975.
d. Air quality levels presently below primary standards.
e. Air quality levels presently below secondary standards.
f. December 31, 1982.
g. December 31, 1987.

Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are provided as numeric footnotes in this chart (40 CFR 52.2429, 1978).

[1] Air quality levels previously below secondary standard.
[2] The previous attainment date was January 1975.
[3] The previous attainment date was May 31, 1977.

5. In § 52.2431 the words "photochemical oxidants" should be replaced with "ozone". Paragraph (d) is also added as follows:

§ 52.2431 Control Strategy: Carbon Monoxide and Ozone.

* * * * *

(d) The nonattainment plan for Carbon Monoxide and Ozone is approved provided that the following conditions are satisfied:

(1) *Margin for Growth.* A system for tracking emissions growth must be sumitted.

(2) *RACT as expeditiously as practicable.* The following regulations contain RACT deficiencies that must be remedied:

(i) The emission limitation on automobile and light duty truck coating in Section 4.55(e)(2).

(ii) The exemption from Stage I vapor controls for gasoline service stations with a throughput of less than 20,000 gallons per month, contained in Section 4.56(d)(3)(ii) (For Richmond only).

(iii) The general exemption for sources of VOC emissions contained in Section 4.54(a)(4)(i), as it applies to Section 4.54(c) dealing with Solvent Metal Cleaning (For Richmond and Northern Virginia only).

(iv) The regulations covering cutback asphalt paving in Section 4.57(b) must be remedied to correct two deficiencies: first, the maximum allowable solvent content of emulsified asphalt of 15% is not RACT; second, allowing the use of cutback asphalt as a tack coat is not allowed under RACT.

(3) *Inspection and Maintenance (I/M).* Adequate I/M legislation must be submitted. The SIP must include, as a minimum, a schedule for implementation of the I/M program and a clear commitment to implement and enforce the program and to reduce emissions by 25% by 1987. Specifically, the SIP should include a commitment to require retesting of vehicles initially failing the annual emissions test, along with a commitment to prohibit registration or provide some equally effective mechanism to prevent vehicles not complying with applicable emission requirements from operating on public roads.

(4) *Enforceability.* (i) Acceptable test methods and procedures for determining compliance with Sections 4.54, 4.55, 4.56 and 4.57 must be submitted.

(ii) An acceptable definition of "reasonable further progress" must be submitted.

(5) *Conformity Requirement.* Commitments must be adopted by each lead agency and Metropolitan Planning Organization (MPO) in the Northern Virginia, Richmond, Peninsula, and Southeastern Virginia areas that no project, program, or plan will be approved that does not conform with the SIP. These commitments must be adopted by the designated lead agencies and MPOs, be endorsed by the State, and be submitted to EPA.

(6) *Carbon Monoxide.* A "hot spot" analysis for Carbon Monoxide, as well as a line of reasonable further progress, must be submitted for the Carbon Monoxide nonattainment areas.

6. In § 52.2436, paragraph (b) is added as follows:

§ 52.2436 Rules and regulations.

* * * * *

(b) The requirements of § 51.22 are not met with respect to Section 4.55 (b) of the Virginia regulations, because the regulation is not adequately enforceable. Therefore, Section 4.55(b) is disapproved.

[FR Doc. 80-25149 Filed 8-18-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1577-4]

Approval and Promulgation of Illinois State Implementation Plan for Ozone

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction and clarification of final rulemaking.

SUMMARY: On February 21, 1980 (45 FR 11472), the U.S. Environmental; Protection Agency (USEPA) announced final rulemaking on revisions to the Illinois State Implementation Plan (SIP). This notice clarifies USEPA's final actions on Rule 205 of the Illinois Air Pollution Regulations in areas of the State which are attaining the National Ambient Air Quality Standard (NAAQS) for ozone. This notice also corrects an error in the codification of Rule 205. Rule 205 contains statewide controls for stationary sources of volatile organic compounds (VOC).

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, USEPA Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 886-6038.

SUPPLEMENTARY INFORMATION: On February 21, 1980 (45 FR 11472), USEPA announced final rulemaking on revisions to the Illinois SIP. These revisions were submitted by the State to satisfy Part D of the Clean Air Act, as amended in 1977. Part D contains requirements for areas designated as not attaining the NAAQS. Some of the revisions submitted by the State apply statewide. Therefore, they apply to areas attaining the NAAQS as well as to areas not attaining the NAAQS. Rule 205 of the Illinois Air Pollution Regulations is one of the revisions which applies statewide. It contains reasonably available control technology (RACT) requirements for stationary sources of VOC. Since the February 21, 1980 final rulemaking, USEPA has received questions concerning its final action on Rule 205 particularly as it applies to attainment areas. This Notice clarifies USEPA's final action and corrects an error in the codification.

Clarification of Final Rulemaking

Clarification of USEPA's final rulemaking is necessary because some of the Clean Air Act's requirements differ for attainment and nonattainment areas. Rule 205 is approvable in attainment areas and conditionally approvable in nonattainment areas. The minor deficiencies in Rule 205 relate to the Part D nonattainment area requirement for reasonably available control technology (RACT) on major sources. There is no RACT requirement for attainment areas. Consequently, USEPA approved Rule 205 in designated attainment areas, with the exception of compliance schedule in Rule 205(j) discussed below. This approval is codified at 40 CFR 52.722 (45 FR 11472, 11493) which states that the Administrator approves the plan identified at 40 CFR 52.720 (45 FR 11472, 11493) with the exceptions set forth in the subpart. No exceptions were contained in the subpart. In designated nonattainment areas, USEPA conditionally approved Rule 205. The conditions for approval are codified at 40 CFR 52.726 (45 FR 11472, 11494).

Correction of Final Rulemaking

In its final rulemaking, USEPA disapproved the compliance schedule in Rule 205(j) as it applies to loading rack controls for all emission sources subject to Rule 205(b)(1), as approved by USEPA on May 31, 1972, which required compliance by December 31, 1973. The disapproval applies statewide. In USEPA's final rulemaking, the disapproval of Rule 205(j) was incorrectly listed as a Part D action in the codification section (45 FR 11472, 11494). This notice corrects that error.

Since this rule clarifies regulatory language and does not alter the legal requirements established on February 21, 1980, USEPA finds that notice and comment are unnecessary. See 5 U.S.C. 553(b)(A)(B).

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.

Dated: August 12, 1980.

John McGuire,
Regional Administrator.

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

(1) Section 52.726(b) is revised as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(b) Disapproval—USEPA disapproves the compliance schedule in Rule 205(j) as it applies to loading rack controls for all emission sources subject to Rule 205(b)(1), as approved by USEPA on May 31, 1972 which were required to be in compliance by December 31, 1973. This disapproval does not in and of itself result in the growth restrictions of section 110(a)(2)(I).

[FR Doc. 80-25154 Filed 8-18-80; 8:45 am]
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40 CFR Part 180

[FRL 1578; PP OF2374/R272]

Tetrahydro-5,5-Dimethyl-2(1H)-Pyrimidione (3-(4-(Trifluoromethyl)Phenyl)-1-(2-(4-(Trifluoromethyl)Phenyl)Ethenyl)-2-Propenylidene)Hydrazone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone[3-[4-(trifluoromethyl)phenyl]-1-[2-[4-(trifluoromethyl)phenyl]ethenyl]-2-propenylidene]hydrazone in or on pasture and rangeland grass and grass hay at 0.05 part per million (ppm). This regulation was requested by American Cyanamid Co. This rule establishes the maximum permissible level of the residues of the insecticide on pasture and rangeland grass and grass hay.

DATES: Effective on August 19, 1980.

Comments must be submitted on or before September 18, 1980.

ADDRESS: Written comments to: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767), Office of Pesticide Programs, Rm. E-329, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: George T. LaRocca (202-426-9490) at the above address.

SUPPLEMENTARY INFORMATION: On July 23, 1980 a notice was published in the **Federal Register** (45 FR 49147) that American Cyanamid Co., Agricultural

Div., PO Box 400, Princeton, NJ 08540 had filed a pesticide petition (PP OF2374) with the EPA. The petition proposed to amend 40 CFR Part 180 by establishing a tolerance limitation for residues of tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone[3-[4-(trifluoromethyl)phenyl]-1-[2-[4-(trifluoromethyl)phenyl]ethenyl]-2-propenylidene]hydrazone in or on forage grasses at 0.05 ppm. No comments were received in response to this notice of filing. Since no residue data were submitted on other than grasses *per se*, American Cyanamid, at our request, revised their initial proposal in terms of "grass" and "grass hay" (pasture and rangeland).

The data submitted in the petition have been evaluated. The toxicology data considered in support of the proposed tolerances included an acute oral toxicity study in rats (both sexes) with an LD_{50} of 1,213 milligrams (mg)/kilogram (kg) of body weight (bw); an Ames test which was negative; a dominant lethal test in rats which was negative at 30 mg/kg of bw/day; a teratology study in rats which was negative at 30 mg/kg of bw/day, and which had a no-observed-effect level (NOEL) of 3 mg/kg of bw/day for fetotoxicity; 90-day feeding studies in rats and dogs with NOEL's of 50 ppm and 3 mg/kg of bw/day, respectively; and, a 26-week feeding study in dogs with a NOEL of 0.33 mg/kg of bw/day.

Desirable toxicology data that are currently lacking from the petition include a 24-month chronic toxicity/oncogenicity study in a mammalian species, an 18-month oncogenicity study in a mammalian species, and a three-generation reproduction study in rats and a second teratology study. However, this petition included interim reports on a three-generation rat reproduction study in progress with a report on the Fo generation which suggests a NOEL of 50 ppm, and six-month status reports for both the 18-month oncogenicity feeding study in mice, and the 24-month chronic toxicity/oncogenicity feeding study in rats, both currently in progress. In a letter of July 18, 1980 the petitioner indicated that the final reports on the three-generation rat reproduction study would be made available to the Agency in October 1981, the 18- and 24-month feeding studies would be made available by May and November 1981, respectively, and the second teratology study would be made available by April 1981. In a letter of July 31, 1980, the petitioner has agreed to withdraw the proposed uses from the label should adverse findings develop from the above studies.

For purposes of the proposed uses, the metabolism of the subject insecticide is considered adequately understood, and an adequate analytical method (gas-liquid chromatography using an electron capture detector) is available for enforcement purposes. Since the proposed use consitutes essentially a "no residue" situation on grass and grass hay (0.05 ppm) it is concluded that there is no reasonable expectation of secondary residues in milk, meat, fat, and meat by-products of cattle, goats, hogs, horses, and sheep. In a July 18, 1980 letter, the petitioner indicated a cattle feeding study is currently in progress that will be made available to the Agency by December 1980, in support of this conclusion.

Whether or not the product will be conditionally registered under Section 3(c)(7)(c) of the Federal Insecticide, Fungicide, and Rodenticide Act as amended will depend on a finding that the registration will be in the public interest. This issue will be addressed in association with the registration review.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that tolerances of 0.05 ppm in or on "grass" and "grass hay" (pasture and rangeland) will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before September 18, 1980 file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objectionss must be 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" procedures. 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 date: August 19, 1980.

(Sec. 408(d)(2), 68 Stat. 514 (21 U.S.C. 346a(e))

Dated: August 12, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by adding § 180.395 to read as follows:

§ 180.395 Tetrahydro-5,5-dimethyl-2(1H)-pyrimidinone(3-(4-trifluoromethyl)phenyl)-1-(2-(4-(trifluoromethyl)phenyl)ethenyl)-2-propenylidene)hydrazone; tolerances for residues.

Tolerances are established for residues of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone[3-[4-(trifluoromethyl)phenyl]-1-[2-[4-(trifluoromethyl)phenyl]ethenyl]-2-propenylidene]hydrazone in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Grass (pasture and rangeland)	0.05
Grass hay (pasture and rangeland)	0.05

[FR Doc. 80-25124 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1575-5; OPP-300021A]

Certain Inert Ingredients in Pesticide Formulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for certain additional inert (or occasionally active) ingredients in pesticide formulations. The regulation was requested by various firms. This rule will permit the use of the exempted inerts in registered pesticide products.

DATES: Effective on August 19, 1980.

Comments must be submitted September 18, 1980.

ADDRESS COMMENTS TO: Gary Burin, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, Environmental Protection Agency, Rm. 816, Crystal Mall No. 2, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Gary Burin, (202/577-3710) at the above address.

SUPPLEMENTARY INFORMATION: Notice was published on May 30, 1980 (45 FR 36438) that several interested persons proposed to amend 40 CFR 180.1001 by exempting certain additional pesticide chemicals which are inert (or occasionally active) ingredients in pesticide formulations from the tolerance requirements. No comments or requests for referral to an advisory committee were received by the Agency with regard to this notice. It has been concluded that the amendment will protect the public health and therefore, that the amendment to the regulation should be adopted as set forth below.

Any person adversely affected by this regulation may on or before September

18, 1980 file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M Street, SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. 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 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 date: August 19, 1980.

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

Dated: August 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart D of 40 CFR Part 180 is amended by alphabetically inserting the items "Charcoal, activated * * *" and "Corn dextrin * * *" in paragraph (c) and by revising the item "Styrene-maleic anhydride copolymer, ester derivative * * *" under limitations in paragraph (d), of § 180.1001 to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Charcoal, activated	Meets specifications in the Food Chemical Codex.	Carrier.
* * *	* * *	* * *
Corn dextrin		Solid diluent, carrier.
* * *	* * *	* * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Styrene-maleic anhydride copolymer, ester derivative.	Limited to 3% of the formulation.	Suspending or dispersing agent. For preemergence use and use prior to formation of edible parts of plant.
* * *	* * *	* * *

[FR Doc. 80-25125 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1575-6; OPP-300025A]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for the inert (or ocassionally active) ingredient oxalic acid in pesticide formulations. The regulation was requested by Monsanto Agricultural Products Co. This regulation will permit the registration of pesticide formulations containing oxalic acid.

DATES: Effective on August 19, 1980.

Comments must be submitted by September 18, 1980.

ADDRESS: Comment to Gary Burin, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall No. 2, 1921 Jefferson Davis Hwy., Arlington, VA 20460.

FOR FURTHER INFORMATION CONTACT: Gary Burin (703-557-3710) at the above address.

SUPPLEMENTARY INFORMATION: Notice was published on June 4, 1980 (45 FR 37700) that Monsanto Agricultural Products Co., submitted a proposal requesting to amend 40 CFR 180.1001 by exempting oxalic acid, which is an inert (or occasionally active) ingredient, in pesticide formulations from the requirement of a tolerance. No comments or requests for referral to an advisory committee were received by the Agency with regard to this notice. It has been concluded that the amendment will protect the public health, and therefore, the amendment to the regulation should be adopted as set forth below.

Any person adversely affected by this regulation may, on or before September 18, 1980 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 quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. 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 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.

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

Dated: August 11, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart D of 40 CFR Part 180 is amended by alphabetically inserting "Oxalic acid * * *" in the table in paragraph (c) of § 180.1001 to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredient	Limits	Uses
* * *	*	* * *
Oxalic Acid	No more oxalic acid should be used than is necessary to chelate calcium and, in no case, should more than 2 pounds oxalic acid per acre be used.	Calcium chelating hard water inhibitor.
* * *	*	* * *

[FR Doc. 80-25126 Filed 8-18-80; 8:45 am]
BILLING CODE 6560-01-M

40 CFR Part 413

[FRL 1568-5]

Effluent Guidelines and Standards, Electroplating Point Source Category, Pretreatment Standards for Existing Sources; Correction

AGENCY: U.S. Environmental Protection Agency.

ACTION: Correction to final rule.

SUMMARY: This document corrects the previous correction to the Agency's Electroplating pretreatment final regulation that appeared in the Federal Register on Tuesday, March 25, 1980, (45 FR 19245).

DATE: This correction is effective August 19, 1980.

FOR FURTHER INFORMATION CONTACT: Dwight Hlustick, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 426-2582.

SUPPLEMENTARY INFORMATION: The regulation was originally published in final form on September 7, 1979, (44 FR 52590) and first corrected on October 1, 1979, (44 FR 56330). On March 25, 1980, another correction was published in the Federal Register. In this notice, EPA corrected 8413.01(a). However, in doing so EPA inadvertently omitted the letter designating subsection "(a)" of § 413.01 from the correction, implying that the Agency intended to delete subsections (b) and (c). By today's correction, the Agency clarifies that §§ 413.01(b) and 413.01(c) were not deleted by the correction of March 25, 1980. They have not been changed and remain as promulgated on September 7, 1979.

DATE: This correction is effective August 19, 1980.

FOR FURTHER INFORMATION CONTACT: Dwight Hlustick, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 426-2582.

Correction

§ 413.01 [Corrected]

1. On page 19246 in the Federal Register for Tuesday, March 25, 1980, the correction for § 413.01 is corrected to read:

"1. Section 413.01(a) has been corrected to read as set forth below."

2. The first sentence of § 413.01 which previously read:

"This part shall apply * * *" has been corrected to read:

"(a) This part shall apply * * *"

Dated: August 5, 1980.

James N. Smith

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 80-25074 Filed 8-18-80; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 90 and 95

[Docket No. 19150; FCC 80-483]

Amending Rules Relating to Land Mobile Allocations and Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule; order.

SUMMARY: The FCC adopts a procedural Order terminating the proceeding relating to the establishment of the Regional Spectrum Management Center in Chicago, Illinois and eliminating from the rules references to the Chicago Region and use of the FCC Form 425.

EFFECTIVE DATE: August 1, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene C. Bowler, Private Radio Bureau, (202) 632-6497.

Order—Proceeding Terminated

Adopted: August 1, 1980.

Released: August 14, 1980.

In the matter of Spectrum Management: Establishment of First Regional Spectrum Management Center in Chicago, Illinois and Amendment of Parts 1, 2, 21, 74, 89, 91, 93, and 95 of the Commission's Rules Relating to Land Mobile Allocations and Assignments, Docket No. 19150. See 37 FR 28419, December 23, 1972.

1. On February 9, 1970, the Commission approved the establishment of a Spectrum Management Task Force with responsibilities for developing and testing a regional spectrum management program. Chicago, Illinois was selected as the location of the first regional center, and the Spectrum Management Task Force proceeded to develop a program to study techniques which might lead to more efficient and effective frequency assignment and licensing approaches.[1]

2. In 1971 the Commission proposed, and adopted in its First *Report* and *Order* in Docket 19150 rules establishing new systems, techniques, and methodologies in the radio spectrum allocated for Land Mobile purposes.[2] These approaches were confined in applicability to an area of approximately 96,000 square miles with Chicago, Illinois at the approximate center. Among other things, the Commission adopted the use of a new application form—FCC Form 425—to permit the establishment and construction of the data base which was to be used in the spectrum management study. All licensees in the Chicago Region [3] were required to use this form.

The Commission further required all applicants for frequencies in the 470–512 MHz band to also use FCC Form 425.[4]

3. In September of 1975 the responsibility and administration of the Chicago Office and most operational aspects, were transferred to the Safety and Special Radio Services Bureau (now Private Radio Bureau). The Commission also undertook a long-term evaluation of the Chicago Regional program and in June 1976, decided to direct its energies and resources to the development of a national land mobile data base rather than continue with a regional approach.

4. Most applicants and licensees in the Chicago Region still continue, however, to submit the Form 425 when seeking new, modified and renewal applications.[5] Additionally, all

[1] See generally *Notice of Proposed Rule Making, Docket No. 19150,* 27 FCC 400 (1971); *First Report and Order, Docket No. 19150,* 32 FCC 2d 347 (1971).

[2] Id.

[3] The Chicago Region was defined in rules adopted in the *First Report & Order, supra* and extended approximately 175 miles in radius from Chicago. The region included parts of Illinois, Indiana, Michigan, Wisconsin, Iowa and Ohio.

[4] See First Report & Order at 348.

[5] The rules have since been amended to delete references which require the use of the Form 425 in the Broadcast and Common Carrier Radio Services.

applicants for frequencies in the 470–512 MHz band still use this form.

5. Since the Chicago Regional experiment has terminated, the Commission has decided that continued reference to the Chicago Region in the private land mobile radio services rules (Part 90) is no longer warranted. We also have concluded that a uniform approach to receiving and processing applications is more convenient to all parties, and will reduce the administrative burden of maintaining two separate processing procedures and data bases. Additionally, FCC Form 425 is more complex, and therefore it requires more of the applicant's time to provide the information. The rationale [6] for the complex information having been rendered moot by previous Commission decisions,[7] there is no longer any substantive reasons to require two different forms. Therefore, in the future, all licensees and applicants seeking authorizations under Part 90 of our rules should use standard FCC Form 400.[8]

6. We are, therefore, eliminating all references in our rules to the Chicago Region and the requirement to use FCC Form 425. Use of the FCC Form 400 for affected parties will become optional August 1, 1980, and mandatory September 1, 1980.

7. These amendments are procedural in nature and will impose no burdens on licensees and applicants. Therefore the prior notice and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, are inapplicable.

8. It is, therefore, ordered pursuant to the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, That the rules contained in the attached Appendix are adopted effective August 1, 1980. It is further ordered that the proceeding in Docket No. 19150 is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Parts 1, 22, 74, 90 and 95 of the rules are amended as follows.

A. PART 1—PRACTICE AND PROCEDURE

1. In § 1.61, paragraph (a) is amended to read as follows.

§ 1.61 Procedures for handling applications requiring special aeronautical study.

(a) Antenna surveys are conducted by the Antenna Survey Branch of the Regional Services Division, Field Operations Bureau.

* * * * *

2. In § 1.922, references to FCC Form 425 are deleted and (reserved) is substituted to read as follows.

§ 1.922 Forms to be used.

* * * * *

410–B Application for permit to operate a Canadian General Radio Station in the United States.

[Reserved]

453—B Certificate of Special Temporary Authorization for Operation of Radio Station on Board New Aircraft.

* * * * *

3. In § 1.924, paragraph (b)(2)(iv) is deleted and (reserved) is substituted to read as follows.

§ 1.924 Assignment or transfer of control, voluntary and involuntary.

(a) * * *

(b) * * *

(2) * * *

(iv) [Reserved]

* * * * *

4. In § 1.926 paragraph (b) is amended by the deletion of subparagraph (5) and the substitution of (reserved) to read as follows.

§ 1.926 Application for renewal of license.

(a) * * *

(b) * * *

(5) [Reserved]

* * * * *

5. In § 1.951, the deleted paragraph (d) is reserved to read as follows.

§ 1.951 How applications are distributed.

(a) * * *

* * * * *

(d) [Reserved]

* * * * *

B. PART 90—PRIVATE LAND MOBILE RADIO SERVICES

1. In § 90.119 paragraph (c) is deleted and the word (reserved) is substituted.

§ 90.119 Application forms.

(a) * * *

* * * * *

(c) [Reserved]

* * * * *

2. In Subpart P—§§ 90.491, 90.493, 90.495, and 90.497 are deleted *in toto* and the word (reserved) is adopted to read as follows.

§§ 90.491, 90.493, 90.495, 90.497 Subpart P. [Reserved]

C. PART 95—SUBPART A—GENERAL MOBILE RADIO SERVICE

1. In § 95.15 paragraph (b) is deleted and the word (reserved) is substituted to read as follows.

§ 95.15 Standard forms to be used.

(a) * * *

* * * * *

(b) [Reserved]

* * * * *

2. In § 95.17 paragraph (b) is amended by the deletion of the last sentence to read as follows.

§ 95.17 Filing of applications.

(a) * * *

* * * * *

(b) Applications for station authorizations, applications for consent to transfer of control of a corporation holding a radio station authorization, requests for special temporary authority or other special requests, and correspondence relating to an application for a radio station authorization shall be submitted to the Commission's Office at Washington, D.C. 20554, and should be directed to the attention of the Secretary.

* * * * *

[FR Doc. 80-25189 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80–4; RM–3519]

Radio Broadcast Services; FM Broadcast Station in Lake Havasu City, Ariz., Changes Made in Table of Assignments; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: On July 23, 1980, a Report and Order in Docket No. 80–4 was adopted concerning FM broadcast station in Lake Havasu City, Arizona. Inadvertently, the rule section number in the heading and in paragraph 6 was marked as section 73.202(b). The correct rule section is § 73.504(a).

EFFECTIVE DATE: September 8, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

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[6] Tremper, P., Automatic Frequency Assignment Model (*AFAM*); FCC Report No. SMTF–75–01 (1975).

[7] Notice of Inquiry, Docket No. 21229, FCC 77–287, adopted April 27, 1977, Released May 17, 1977, Page 9, Paragraph 21.

[8] Applicants for the 470–512 MHz frequencies, in lieu of the Form 425, should use the Form 400 and append to it necessary information relating to altitude above average terrain (AAT) and effective radiated power (ERP). See Sections 90.301–315 of the Commission's Rules.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Released: August 8, 1980.

By the Chief, Policy and Rules Division.

1. On July 23, 1980, a *Report and Order* in the above-captioned proceeding was adopted. Inadvertently, the rule section number in both the heading and in paragraph 6 was listed as § 73.202(b). The correct section number is § 73.504(a).

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25233 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-27; RM-3275]

Radio Broadcast Services; FM Broadcast Station in Snowmass Village, Colo.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and Order.

SUMMARY: This action assigns Channel 280A to Snowmass Village, Colorado, as its first FM chann- assignment in response to a petition filed by Pitkin County Broadcasters.

DATE: Effective September 22, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 6, 1980.

Released: August 14, 1980.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making* adopted January 22, 1980, proposing the assignment of a first Class A FM channel, 280A, to Snowmass Village, Colorado. Supporting comments were filed by petitioner, Pitkin County Broadcasters, and by William Lippman, Jack D. Gabow and Robert E. Lyon. An opposition was filed by Recreation Broadcasting of Aspen, Inc. ("RBA"), licensee of FM station KSPN, Aspen, Colorado. RBA also filed a reply.

2. Snowmass Village (pop. 1,500), in Pitkin County (pop. 6,185), is located in the western part of Colorado, approximately 24 kilometers (15 miles) from Aspen, Colorado.

3. RBA, in opposition, contends that there are already sufficient aural services for the Aspen area in which Snowmass Village is one of several resort communities. It also notes that growth potential is limited by controls and that preclusion would be significant. In its reply, RBA argues that the supporting parties have not demonstrated that Snowmass Village can support a local station.

4. We have carefully considered the proposal herein and conclude that it would be in the public interest to assign Channel 280A to Snowmass Village, Colorado. The arguments raised by RBA concern economic matters that are more appropriate for consideration at the application stage. As for the preclusion impact, that factor is not an obstacle to a first Class A assignment to a non-suburban community. Therefore, in view of the provision of a first local aural service, we shall assign Channel 280A to Snowmass Village.

5. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303 (b) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

6. In view of the foregoing, IT IS ORDERED, That effective September 22, 1980, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended for the community listed below as follows:

City and Channel No.

Snowmass Village, Colorado—280A.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 1307.)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25232 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-40; RM-3349]

FM Broadcast Stations in Blue Ridge, Ga., and Murphy, N.C.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: Action herein would reassign Channel 280A from Murphy, North Carolina, to Blue Ridge, Georgia, to reflect its actual use. This action is taken in response to a petition filed by the Cherokee Broadcasting Company.

DATE: Effective September 18, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John Kamp, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: August 4, 1980.

Released: August 14, 1980.

In the matter of amendment of section 73.202(b), Table of Assignments, FM Broadcast Stations. (Blue Ridge, Georgia, and Murphy, North Carolina), BC Docket No. 80-40, RM-3349.

1. The Commission herein considers the *Notice of Proposed Rule Making*, adopted February 1, 1980, 45 FR 9023, in the above-entitled proceeding, instituted in response to a petition filed by Cherokee Broadcasting Company ("petitioner"). Petitioner proposed the deletion of FM Channel 280A from Murphy, North Carolina, and its reassignment to Blue Ridge, Georgia, to reflect its use there. Supporting comments were filed by petitioner. No oppositions were filed.

2. Murphy (pop. 2,082)[1] in Cherokee County (pop. 16,300) is located in the southwestern part of North Carolina. It has one FM assignment, Channel 280A. Blue Ridge (pop. 1,602), in Fannin County (13,357), is located approximately 35 kilometers (22 miles) southwest of Murphy. Local service is provided by Station WPPL (Channel 280A) which is assigned to Murphy and used at Blue Ridge pursuant to § 73.203(b) which, when the station was first licensed, permitted its use within 25 miles of the community to which it was assigned. Since then, the 25 mile limit has been decreased to 10 miles for Class A stations.

3. Petitioner states that Station WPPL is located approximately 22 miles from Murphy, and both terrain and distance prohibit it from providing FM service to Murphy. Petitioner in supporting comments listed attempts to obtain a new FM assignment to Murphy that could provide a first local FM service to 35,000 persons. Petitioner believes that the existence of an assignment at Murphy has been a factor in these denials. The previous attempts have failed in our reading of the cases because the requests either involved short spaced channels or did not

[1] Population figures are taken from the 1970 U.S. Census.

otherwise comply with the Commission's rules.

4. Although petitioner does not seek a channel assignment herein for Murphy, the Commission believes that the public interest would be served by the reassignment of Channel 280A Blue Ridge, Georgia, to reflect its current use there.

5. Accordingly, it is ordered, that effective September 18, 1980, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended with regard to the communities listed below:

City and Channel No.

Blue Ridge, Georgia, 280A.
Murphy, North Carolina——.

6. Authority for the action taken herein is found in Sections 4(i), 5(d), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact John Kamp, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–25194 Filed 8–18–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–5; RM–3449]

TV Broadcast Station in LaGrande, Ore.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: This action reserves VHF–TV Channel *13 for noncommercial educational use and makes UHF–TV Channel 16 available for commercial use at LaGrande, Oregon, in response to a petition from the Oregon State Board of Higher Education. The reservation of Channel *13 reflects the actual use of TV Station KTVR there.

DATE: Effective September 22, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: August 4, 1980.

Released: August 14, 1980.

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (LaGrande, Oregon), BC Docket No. 80–5, RM–3449.

1. The Commission has before it the *Notice of Proposed Rule Making,* adopted January 9, 1980, 45 FR 3939, in response to a petition filed by the Oregon State Board of Higher Education ("petitioner") acting on behalf of the Oregon Educational and Public Broadcasting Service. Petitioner requests the reservation of VHF–TV Channel 13, LaGrande, Oregon, for noncommercial educational use to reflect the actual use of satellite Station KTVR there. It also proposes to delete the reservation on UHF–TV Channel *16 at LaGrande in order to continue to provide a channel for commercial use. No comments were filed in response to the petition.

2. LaGrande (pop. 9,645), in Union County (pop. 19,377) [1], is located in the northeastern part of the State. Television Channels 13 and *16 are assigned to LaGrande, Oregon. At present Channel 13 is operated primarily as a satellite of the affiliated Portland, Oregon, noncommercial station, KOAP–TV.

3. Petitioner states that the reservation of Channel 13 for noncommercial educational use would reflect its current use as well as provide the necessary assurances to warrant the investment of time and resources to make KTVR the full-fledged educational operation envisioned by the 1965 State plan. This plan calls for a LaGrande facility with studio and production facilities operating in conjunction with Eastern Oregon College; the facility would also provide material for broadcast over the Portland and Corvallis stations.

4. We have carefully considered the proposal and conclude that it would be in the public interest to reserve television Channel 13 (KTVR) for noncommercial educational use. The reservation reflects the use of the channel by the Oregon State Board of Higher Education for its satellite Station KTVR, and preserves its availability for noncommercial educational use. In order to provide a channel for future commercial use, we shall also delete the reservation on Channel *16.

[1] Population figures are taken from the 1970 U.S. Census.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective September 22, 1980, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended for the city listed below, to read as follows:

City and Channel No.

LaGrande, Oregon, *13+, 16.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303 307 48 Stat., as amended 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–25195 Filed 8–18–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–45; RM–3491]

TV Broadcast Station in Lexington, KY; Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: As a result of a petition for rule making filed by Frederick Gregg, Jr., Channel 62 has been assigned to Lexington, Kentucky, as its fourth commercial TV assignment.

DATE: Effective September 22, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated

Adopted: August 4, 1980.

Released: August 14, 1980.

In the matter of amendment of § 73.606(b), *Table of Assignments,* Television Broadcast Stations. (Lexington, Kentucky), BC Docket No. 80–45, RM–3491.

1. The Commission has before it the *Notice of Proposed Rule Making,* adopted February 6, 1980, 45 FR 12453, in response to a peitition filed by Frederick Gregg, Jr., in connection with

Docket 21392 which deleted UHF Channel 62 from Lexington, Kentucky, *Report and Order*, released April 26, 1979. This petition proposes the reinstatement of Channel 62 to Lexington as its fourth commercial TV assignment. Kentucky Family Broadcasting and Fantel, Inc., filed supporting comments each asserting that they would file an application if Channel 62 is reassigned.

2. Lexington (pop. 106,137), in Fayette County (pop. 174,323)[1], is located approximately 115 kilometers (70 miles) east of Louisville.

3. Petitioner states that the commercial facilities in the Lexington market only provide viewers with network programming. He, as well as Kentucky Family Broadcasting, Inc., asserts that the proposed channel would provide for a station which could render a new and diversified source of television programming, thus maximizing diversity of viewpoints available in the broadcast marketplace, and providing a choice between or among competing applicants.

4. We have carefully considered the proposal and conclude that it would be in the public interest to reassign UHF television Channel 62 to Lexington, Kentucky. Leaving Channel 62 in place would maximize utilization of the UHF spectrum in the Lexington market. Channel 62 can be reassigned to Lexington in compliance with the minimum distance separation requirements and other technical criteria.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), and 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, That effective September 22, 1980, the Television Table of Assignments, § 73.606(b) of the Commission's rules is amended for the city listed below, to read as follows:

City and *Chanel No.*
Lexington, Kentucky, 18+, 27−, 36, *46, 62.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast, Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

[1] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25193 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 78-313; RM-3052]

TV Broadcast Station in San Diego, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns UHF-TV Channel 69 to San Diego, California, as its sixth television channel assignment in response to a petition filed by Center City Complex, Inc. Oppositions submitted by groups representing land mobile operators and by the translator operator on an adjacent channel were held not to be obstacles to the assignment.

DATE: Effective September 22, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: August 4, 1980.

Released: August 13, 1980.

In the matter of amendment of § 73.606(b), *Table of Assigments*, Television Broadcast Stations. (San Diego, California), BC Docket No. 78–313, RM–3052.

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 43 FR 46049, released October 3, 1978, proposing assignment of UHF-TV Channel 69 to San Diego, California, in response to a request by Center City Complex, Inc. ("petitioner").[1] Comments supporting the proposal were filed by the petitioner and by Frank M. Goldberg; comments opposing it were filed by the Board of Trustees, The California State University and Colleges for San Diego State University ("Board of Trustees"),[2] the Land Mobile Communications Council ("LMCC") and Palomar Communications Co., Inc. ("Palomar"). Petitioner filed reply comments to which the Association of Maximum Service Telecasters, Inc. ("MST") responded.

2. San Diego (pop. 697,027, 1970 U.S. Census), seat of San Diego County (1970 pop. 1,357,854), is located in the extreme southwest corner of California at the United States-Mexican border. Five television channels are presently assigned to the city: Channel 8 (KFMB–TV), Channel 10 (KGTV), Channel *15 (KPBS–TV), Channel 39 (KCST–TV) and Channel 51 (construction permit granted to Gross Broadcasting Co. (KJOG–TV), BPCT–3842).

3. In issuing the *Notice*, the Commission's staff undertook an analysis of possible UHF assignments to San Diego. Channel 69 was the only channel that was not subject to transmitter site restrictions, and therefore could be used either at the city reference point or on San Manuel mountain, the site of two existing and one proposed UHF stations. The need for a sixth television assignment to San Diego had been established. Board of Trustees, LMCC and Palomar question the suitability of a Channel 69 allocation, citing various problems of potential interference.

4. As a preliminary matter, the concern of the Board of Trustees that interference to its existing translator Station at La Jolla, California, should be considered is not a legitimate matter. Changes in the Television Table of Assignments may be made without regard to existing translator stations. See § 74.702(c)(3) of the Commission's rules. Furthermore, protection is not in any event necessary, it being apparent from the pleadings that petitioner's proposed transmitter site will be separated from the Board of Trustee's translator by more than the 20 miles specified in § 74.702(c)(2)(iii) of the Commission's Rules.[3]

5. LMCC and Palomar both complain of potential interference on land mobile radio frequencies adjacent to Channel 69.[4] When UHF Channels 70–83 were set aside for land mobile usage, no restrictions on the use of Channel 69 were imposed to avoid adjacent channel interference problems. See Docket 18262, 35 FR 8644; *recons. den.*, 25 F.C.C. 2d 764 (1970); *Second Report and Order*, 46 F.C.C. 2d 752 (1974), 51 F.C.C. 2d 938, 55 F.C.C. 2d 771 (1975). Land mobile

[1] Petitioner previously requested Channel 27 which was assigned to Tijuana, Mexico, subsequent to the filing of the petition. Channel 69 was substituted for the original proposal.

[2] While somewhat late, these comments were not so untimely as to preclude their examination by all parties concerned. Hence, we will consder them on their merits.

[3] Were this not the case, the Board of Trustees would bear the burden of achieving compliance with the required separation. Section 74.702(c)(3) of our rules.

[4] Channel 69 occupies 800 to 806 MHz in the frequency spectrum; 806 to 821 MHz are allocated for land mobile radio use.

stations have been operating for some time in the band immediately adjacent to UHF–TV Channel 14, using techniques such as vertical isolation, cross-polarization isolation and filtering to meet or minimize problems that arise. We are confident that the band adjacent to Channel 69 can be used on the same terms with equal success. Reservation of Channel 69 as, in effect, a guard band separating UHF television operations from the land mobile radio operations, the practical effect of opponent's position, is not contemplated by our Rules. Given the availability of alternative methods for handling interference, it is unnecessary and inappropirate on operational grounds as well.[5] Therefore, we do not view the potential for interference as a sufficient obstacle to bar the assignment of Channel 69 to San Diego.

6. Petitioner submitted lengthy comments in which it complained that UHF TV Channel 27 should not have been "lost" to the Mexican government. However, after reviewing the remaining channels for possible assignment, it supports the assignment of Channel 69 to San Diego.

7. The concurrence of the Mexican government in the assignment of Channel 69 to San Diego has been obtained.

8. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's rules, it is ordered, that effective September 22, 1980, the Television Table of Assignments, § 73.606(b) of the Commission's rules, is amended to read as follows for the city listed below:

City and Channel No.

San Diego, California, 8, 10, *15, 39, 51, 69.

9. It is further ordered, that this proceeding is terminated.

10. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25237 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

[5] This would be true even if channels other than Channel 69 were available for use in San Diego.

47 CFR Part 73

[BC Docket No. 80-46; RM-3483]

Radio Broadcast Services; FM Broadcast Station in Bethel, Alaska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns Channel 261A to Bethel, Alaska, as its first FM channel in response to a petition filed by Tundra Broadcasting, Inc.

DATE: Effective September 18, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 4, 1980.

By the Chief, Policy and Rules Division, Report and Order (Proceeding Terminated).

1. The Commission has under consideration a *Notice of Proposed Rule Making*, adopted February 6, 1980, 45 FR 12448, proposing the assignment of FM Channel 261A to Bethel, Alaska, as a first FM assignment. The *Notice* was issued in response to petition filed by Tundra Broadcasting, Inc. ("petitioner"). Petitioner has reaffirmed its intention to apply for the channel, if assigned.

2. Bethel (pop. 2,416)[1], is located in the Bethel Division (pop. 7,579) in the southwestern portion of the State, approximately 450 kilometers (280 miles) south of Nome and 660 kilometers (410 miles) west of Anchorage. It is served by full-time AM Station KYUK.

3. Petitioner has provided sufficient information concerning the need for a first local FM service.

4. We believe that the public interest would be served by the assignment of Channel 261A to Bethel, Alaska. An interest has been expressed for its use, and such an assignment could provide the community with its first local FM broadcast service.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules, it is ordered, that effective September 18, 1980, the FM Table of Assignments, § 73.202(b) of the rules, is amended with respect to the following community:

City and Channel No.

Bethel, Alaska—261A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-25191 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1120A

[Finance Docket No. 28990F]

Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions

Decided July 23, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules and exemptions.

SUMMARY: We are exempting the acquisition by a State of rail lines approved for abandonment, when the abandonment has not been consummated. Further, we are exempting from our regulation the start up and termination of operations over lines abandoned or approved for abandonment, which have been acquired by a State. We are also adopting rules for a modified certificate of public convenience and necessity for these operations. This will insure that our regulations do not prevent a State or political subdivision from initiating programs to continue rail service, and will encourage operators to provide service over State acquired lines.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT: Richard Kelley, (202) 275–7564.

SUPPLEMENTARY INFORMATION: On March 26, 1980, a notice of proposed rulemaking and proposed exemptions was served and published at 45 FR 19585. These proposals were in response to petitions filed by States concerned about the effect regulation might have on their programs to continue rail service. In that notice, we proposed to exempt from our approval, under 49 U.S.C. 10901, the acquisition by a State of a rail line which had been abandoned or approved for abandonment. In addition, we proposed to exempt the

operators who provide service over these lines, from our regulatory requirements concerning start up and termination of operations. (49 U.S.C. 10901 and 10903). We also proposed special rules which would apply to the States and to the operators of these lines.

The purpose of these proposals is to promote continuation of rail service by removing certain regulatory constraints from the States and thus encouraging rail continuation programs. In addition, it will remove regulatory contraints which might discourage new operators from initiating service over marginal lines. Within the last year two major rail systems, the Chicago, Rock Island and Pacific Railroad Company, and the Chicago, Milwaukee, St. Paul and Pacific Railroad Company have terminated either all or a substantial portion of their operations. In response to the threat of losing rail service that the States find vital to their economic well being, several States have developed programs to continue service. These programs include plans by States to purchase rail lines and contract with operators to provide service. Also, new businesses have been organized to provide service over these lines. This proposal is designed to facilitate these efforts.

Comments on the notice were filed by five States: the State of Michigan, Department of Transportation (MI-DOT), the State of Wisconsin, Department of Transportation (WI-DOT), the Commissioner of Transportation of the State of New York (NY), the State of South Dakota (SD), the State of Iowa, Department of Transportation, the United States Department of Transportation (DOT, Railway Labor Executives' Association (RLEA), the Illinois Legislative Director for the United Transportation Union (UTU), the Association of American Railroads (AAR) and the Freight User Association of Long Island, Inc. Generally, the States and DOT favored the proposals but raised several questions about them. The labor and shipper organizations opposed the proposals.

NY filed a petition to be considered a party and moved to dismiss the proceeding, on the ground that this Commission has no jurisdiction over a State. NY is a proper party to the proceeding. The motion to dismiss is denied. It is well established that when a noncarrier, including a State, acquires a railroad, it must seek our approval under section 10901. See *United States* v. *California*, 297 U.S. 175 (1936); *Iowa Term. R. Co. Acquisition and Operation*, 312 I.C.C. 546, 549 (1961).

Discussion and Conclusions of Issues

1. *Exemptions.*—RLEA and UTU contend that the proposed exemptions are beyond the scope of section 10505 and that the Commission has not met the statutory burdens of this section. The unions' concern is that these proposed rules and exemptions will be used to avoid the labor protective provisions of 49 U.S.C. subtitle IV. They contend that the Commission cannot act as a superlegislature and exempt a class from important statutory provisions.

The language of section 10505 and the legislative history [1] give the Commission broad discretion concerning exemptions. We can exempt not only a transaction, but transactions. The Senate report explained the scope of the Commission's exemption authority as follows:

> The requirement of full proceedings before exemption can be granted * * *, as well as the findings which must be made, assure that the Commission will not act in such a manner as to contravene its Congressional mandate to regulate interstate commerce. At the same time, the power to exempt from regulation in whole or in part will enable the Commission to commit its limited resources in areas where they are most needed, by enabling it to deregulate those areas which have no significant bearing on the overall regulatory scheme. [S. Rept. 94-499, p. 53 (November 26, 1975).]

See also H. Rept. 94-725, p. 75 (December 12, 1975) which stated:

> The Committee has given the Commission the [exemption] power to study and review the areas of its regulation so as to eliminate from regulation those areas where regulation is not required to effectuate the national transportation policy or where the removal of the regulation would be no undue burden on persons or class of persons in interstate or foreign commerce, or where such regulation would serve little or no useful public purpose.

Additional legislative history indicates that the exemption power is to be used where regulation is not necessary to carry out the statutory criteria. See H. Rept. 94-768, p. 125 (December 10, 1975) and H. Rept. 94-781, p. 153 (January 23, 1976). Based on the clear legislative history of our exemption power and its precise wording as enacted in the Railroad Revitalization and Regulatory Reform Act of 1976, we can clearly exempt a class of transactions.

Under section 10505, we are authorized to exempt from our regulation a class of persons, or a transaction or service where appropriate "because of the limited scope of the transaction or service." This exemption is available when we find that continued regulation:

(1) Is not necessry to carry out the transportation policy contained in section 10101 of the act;

(2) Would be an unreasonable burden on a person, class of persons, or interstate and foreign commerce; and

(3) Would serve little or no useful public purpose.

We will now apply these statutory requirements to the two exemptions proposed here. The scope of the exempted transactions is limited. Both exemptions will apply only to rail lines which have been approved for abandonment. Out of a national rail system totaling approximately 325,000 miles of main and branch lines, we approved the abandonment of only 2,873 miles in 1979, 2,417 miles in 1978, 2,500 miles in 1977, and 1,789 miles in 1976. The average length of the lines approved for abandonment is short: 23 miles in 1979, 22 miles in 1978, 17 miles in 1977, and 18 miles in 1976. In addition, States have shown interest in acquiring only a small fraction of these abandoned lines. Also, lines approved for abandonment generally have relatively sparse traffic, and have been either not profitable or only marginally profitable.

a. *Acquisition by State of a rail line approved for abandonment.*—When a rail line has been fully abandoned,[2] it is no longer rail line and the transfer of the line is not subject to our jurisdiction. However, when a line has not been fully abandoned, the transfer of the line is subject to our juridiction. We are exempting States from our regulatory requirements concerning acquisition of lines not fully abandoned. When a State wishes to acquire a line approved for abandonment by the Commission or a Bankruptcy Court, and the line has not been fully abandoned we will not require the filing of an application. This is a narrow class of transactions which does not require review by this Commission to protect the public interest.

We are requiring States to notify the Commission of the acquisition of these rail lines and whether operations will be continued over them.

The fact that the abandonment has not been consummated will not result in any change in employee protective conditions which may have been imposed in the abandonment proceeding. In acquisition proceedings where the vendor had filed abandonment applications for the

[1] See H. Rept. 94-725, p. 75 (December 12, 1975), H. Rept. 94-781, p. 153 (January 23, 1976), and S. Rept. 94-499, p. 53 (November 26, 1975).

[2] A line is fully abandoned after a certificate of public convenience and necessity has been issued, and when operations have ceased, tariffs have been canceled and a letter has been filed with the Commission that the abandonment has been consummated.

involved line, but the application was dismissed when the acquisition was granted, the Commission has required the selling railroad to assume the costs of labor protection. See *Prairie Trunk Railway—Acquisition and Operation*, 348 I.C.C. 832 (1977) and *Cadillac & Lake City Ry. Co. Acquisition and Operation*, 320 I.C.C. 617 (1964).

SD requests that this exemption proposal be modified to include nonabandoned lines of bankrupt railroads purchased by a State with the approval of the Bankruptcy Court. We see no justification for abdicating our concurrent jurisdiction. Under the Milwaukee Railroad Restructuring Act, section 5(b)(2) (MRRA), a Bankruptcy Court may not authorize a sale or transfer *until* an application has been filed with the Commission. To comply with the requirements of MRRA, we have adopted special procedures in Ex Parte No. 282 (Sub-No. 4), *Acquisition Procedures for Lines of Railroads*, 360 I.C.C. 623 (1980). These procedures streamline the information filed by applicants; yet enable the Commission to rule quickly and knowledgeably on the acquisition. We have ruled upon an acquisition under these procedures with a 30-day court imposed time limit. See, Finance Docket No. 29237, *State of Wisconsin—Acquisition of Certain Lines of Chicago Milwaukee, St. Paul and Pacific Railroad Company* (not printed), decided January 30, 1980. However, transfers to States of those lines abandoned or approved for abandonment will fall within the scope of this exemption.

b. *Operators exempt from filing start up and abandonment applications.*—(49 U.S.C. 10901 and 10903.) The lines involved under this exemption are lines that have been approved for abandonment, or have been fully abandoned; as discussed above, the scope of the transaction is limited.

In acquiring these lines the States may be contracting with new operators for service over lines which have proven uneconomical to operate. Service over these lines may be in danger of immediate termination. Requiring an application under section 10901 to start up operations may result in temporary cessation of service to shippers. The new carriers may also be concerned with the necessity of continuing operations for months should another abandonment application be required. To require applications for the start up and termination of service over these lines serves no public purpose, is an unreasonable burden, and is not necessary to carry out the transportation policy.

We recognize the concern of RLEA and UTU regarding the Commission's statutory duty to impose employee protective conditions. However, these exemptions will not affect the labor protective conditions imposed by the Bankruptcy Court or the Commission in abandonment proceedings. All rail lines exempted here will have been approved for abandonment and employees protective conditions will have been imposed on the abandoning carrier.

The purpose of this proceeding is to facilitate the acquisition and operation of lines for which service by the current carrier will in all likelihood not be continued. This purpose clearly fulfills our most fundamental congressional mandate: to ensure the development, coordination, and preservation of a transportation system. This proposal should increase employment opportunities for railroad employees. However, employees of the new operators will be on notice from the beginning that this is an enterprise that may go out of business, and as with most business enterprises, the employees will have no protections other than those provided by the original abandoning carrier imposed if the new operations terminate.

2. *Common carrier status of states.*—In our March 26 notice, we suggested that both the State and the operator would become common carriers, even though certain transactions would be exempt from our jurisdiction. The States argue strenuously that no common carrier status should attach when they acquire rail line and contract for the operations over the line. They contend that a State should be required to file an application for a common carrier certificate only if it operates a rail line. Further, where the operator has assumed the entire burden of operating the line, no purpose is served by requiring a State to become a common carrier. WI–DOT explained:

> These Wisconsin counties and cities do not provide any rail service for compensation. They simply permit an operator on their track and WISDOT land and hope the operator can break even or turn a profit with a minimum contribution of public moneys for track maintenance and rehabilitation. [WI–DOT comment, p. 1.]

In addition, they contend that a finding that States incur a common carrier obligation merely by owning a rail line is contrary to established Commission policy and contrary to the purpose of 49 U.S.C. subtitle IV. They argue that the fundamental test for determining common carrier status is whether there has been a "holding out to the public as a common carrier." *Status of Bush Universal, Inc.*, 342 I.C.C. 550, 564 (1973). See also *State of Okla. Ex Rel., Dept. of Highways, Abandonment*, 324 I.C.C. 666 (1965), where the State paid the construction cost of a rail line, but was not considered a "carrier" under 49 U.S.C. 10901. Further, in *State of Vt. and Vermont Ry., Inc., Acquisition and Op.*, 320 I.C.C. 609, 610 (1964), the Commission, Division 3, ruled that a State, which acquired a rail line authorized to be abandoned, was not considered a common carrier when it never performed, or held itself out to perform transportation service.

WI–DOT notes that many State constitutions prohibit a State from becoming a common carrier. WI–DOT also asks the Commission to consider the additional burden common carrier status would impose on States insofar as employee protective arrangements under 49 U.S.C. 11347 and liability under the Federal Employee's Liability Act.

We are persuaded by the States' arguments. The purpose of this proposal is to promote continuation of rail service and to remove obstacles which might inhibit States from acquiring lines so that service can be continued. Our mandate to promote transportation is best served by following the policy that mere ownership of a rail line by a State does not create common carrier status. When a State has not held itself out to be the operator of a line and thus has not incurred a duty to the public, the common carrier duty to provide and maintain service should be only on the operator. Therefore, we have modified our proposal, and we will not require the State to file jointly with the operator of a notice for a modified certificate.[3] A State will be considered a common carrier if it operates a rail line itself. *United States* v. *California, supra.*

3. *Modified certificate of public convenience and necessity.*—The operators, whether a State or its contractor, which would be exempted from our regulatory requirements concerning start up and termination of operations, must however, file a notice for a modified certificate of public convenience and necessity under 49 CFR Part 1120A. See apendix. This notice will provide the Commission with essential information concerning the financial condition of the operator, liability insurance coverage, and the nature of the operations. An operator may commence operations immediately

[3] In our original notice, we had proposed exempting the States from the securities requirements of section 11301. Under that proposal the State, as the nonoperating owner of a rail line was required to join in the application for a modified certificate. Since, we have ruled here that only the operator of a line is a common carrier, this exemption for the States is not needed.

upon the filing of a completed notice under 49 CFR Part 1120A. Service can be terminated after providing 60 days' notice to the State, the Commission, and shippers on the line.

The operators under the modified certificate incur full common carrier obligations (within any limitations contained in the certificate such as shipper subsidy) and may subscribe to existing industrywide agreements and rules pertaining to the joint movement and interchange of freight cars and traffic, and arrangements for accounting, billing, and settlements.

DOT questions whether an operator under this type of certificate should be eligible for antitrust immunity under section 10706. The issue of rate bureau antitrust immunity is being considered in other proceedings before the Commission [4] and in legislation pending in Congress. DOT has not shown how granting the immunity to these operators would promote uneconomical transportation. It is our view, that insofar as operations are concerned, the operators under modified certificates are the same as other common carriers—they differ only in the requirements for start up and termination of service. To the extent that these carriers join rate bureaus for the purpose of discussing collective rates, they will be held to the same standards applicable for rail carrier antitrust immunity generally.

We should also clarify the limitation of service under the modified certificate. The State through its operational agreement and/or the operator of the line may determine certain preconditions, such as payment of a subsidy, which must be met by shippers to obtain service over a line. All shippers must be notified of the precondition and any shipper who meets the requirements must be served. The modified certificate will authorize service only to the shippers who meet these preconditions and the operator's common carrier duty will extend only to those shippers.

4. *Other issues.*—DOT suggests that the exemptions apply only to rail lines which carried traffic of 5 million gross ton-miles or less during its last year of operation. This limitation is needed, DOT contends, because States may acquire abandoned main line and these State-owned lines could achieve "unfair competitive advantages." This limitation is not necessary. DOT has not shown what "unfair competitive advantages" may result from this proposal. Also, shippers along lines served served by these operators are on notice that service may be terminated after providing 60 days' notice. If the operations become profitable enough, a carrier would, in all likelihood, apply for a common carrier certificate so that shippers would know the service was long term and would be willing to expand or locate on the line.

DOT is authorized, under 49 U.S.C. 1654 (f) and (k), with certain limited exceptions, to grant assistance to States for *subsidizing* service over lines previously authorized for abandonment by this Commission, and to grant assistance for *rehabilitating* light density lines that have not been abandoned or authorized for abandonment. Thus, the type of assistance which DOT is authorized to provide varies depending on whether the line for which a State seeks assistance has been abandoned or authorized for abandonment.

DOT requests that we clarify whether the line operated under a modified certificate of public convenience and necessity is a line authorized for abandonment and therefore eligible only for operating subsidies, or is a line operated under a common carrier certificate and thus eligible for rehabilitation assistance. Since all the rail lines that will be covered by this exemption would have been abandoned pursuant to our regular procedures but for this exemption, we conclude that they would not be eligible for rehabilitation assistance. If a carrier wishes to take advantage of Federal rehabilitation assistance programs, it will have to apply for a full-fledged certificate of public convenience and necessity pursuant to section 10901 of the act.

UTU asks why States should be treated differently than private sector railroads. Our statutory mandate requires us "to cooperate with each State and the officials of each State on transportation matters." 49 U.S.C. 10101(a)(15). In addition, Congress has clearly enunciated its view that States should take an active role in maintaining rail service. See the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976.

We adopt the exemptions discussed in this notice and the rules set forth in the appendix.

This action does not affect significantly the quality of the human environment or conservation of energy resources.

Issued under the authority of 5 U.S.C. 553 and 49 U.S.C. 10321 and 10505.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Trantum concurring with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Trantum, concurring:

In his comments, the Illinois Legislative Director for the United Transportation Union observes:

> The fact that a carrier may be financially assisted by a State should not accord that carrier preferential regulatory treatment vis-a-vis other carriers not connected with a State.

Although I am not persuaded by his arguments against the exemptions and rules adopted by the Commission in this proceeding, I too oppose inconsistent application of regulations.

We have found valid reasons to lessen regulatory burdens on State and local governments that acquire abandoned rail lines, and on those who operate such lines for them. But we are not being consistent unless we provide comparable relief for private-sector railroad companies that may wish to acquire and operate abandoned lines. In fact, we are creating a strong incentive for expanding government involvement. While the majority has cited the Congressional policy favoring cooperation with the States, Section 101(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 declared the goal of allowing the railroad industry to "remain viable in the private sector of the economy." I call on the Commission to institute another proceeding to investigate extending to private-sector companies the same exemptions and rules adopted today.

Appendix

The following rules are added as 49 CFR Part 1120A:

PART 1120A—MODIFIED CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Sec.

1120A.1 Scope of rules.
1120A.2 Exemptions and common carrier status.
1120A.3 Modified certificate of public convenience and necessity.
1120A.4 Termination of service.

Authority. 5 U.S.C. 553 and 49 U.S.C. 10321 and 10505.

§ 1120A.1 Scope of rules.

These special rules apply to the operations over abandoned rail line, which has been acquired (through

[4] Section 5(b) Application No. 2, Western Railroads—Agreement; Section 5(b) Application No. 3, Eastern Railroads—Agreement; and Section 5(b) Application No. 6, Southern Railroads—Agreement.

purchase or lease) by a State. The rail line must have been fully abandoned, or approved for abandonment by the Commission or a Bankruptcy Court. As used in these rules, the term "State" includes States, political subdivisions of States, and all instrumentalities through which the State can act. An operator has the option of applying for a modified certificate of public convenience and necessity under this section or a common carrier certificate under 49 U.S.C. 10901 and 49 CFR Part 1120.

§ 1120A.2 Exemptions and common carrier status.

The acquisition by a State of a fully abandoned line is not subject to the jurisdiction of the Interstate Commerce Commission. The acquisition by a State of a line approved for abandonment and not yet fully abandoned is exempted from the Commission's jurisdiction. If the State intends to operate the line itself, it will be considered a common carrier. However, when a State acquires a rail line described under section 1120A.1 and contracts with an operator to provide service over the line, only the operator incurs a common carrier obligation. The operators of these lines are exempted from 49 U.S.C. 10901 and 10903 to which are the statutory requirements governing the start up and termination of operations. Operators exempted from these requirements must comply with the requirements of this part and must apply for a modified certificate of public convenience and necessity. The operator is a common carrier and incurs all benefits and responsibilities under 49 U.S.C. subtitle IV; however, the State through its operational agreement or the operator of the line may determine certain preconditions, such as payment of a subsidy, which must be met by shippers to obtain service over the line. The operator must notify the shippers on the line of any preconditions. The modified certificate will authorize service to shippers who meet these preconditions and the operator will be required to provide complete common carrier service under this certificate only to those shippers. (See 363 I.C.C. 132.)

§ 1120A.3 Modified certificate of public convenience and necessity.

(a) The operator must file a notice with the Commission for a modifed certificate of public convenience and necessity. Operations may commence immediately upon the filing; however, the Commission will review the information filed, and if complete, will issue a modified certificate notice. If an operator has an application pending under section 10901 at the time the rules become effective, it may file a request to convert the application to a modified certificate within 60 days of the effective date of these rules.

(b) A notice for a modified certificate of public convenience and necessity shall include the following information:

(1) The name and address of the operator and, unless the operator is an existing rail carrier:

(i) Its articles of incorporation or, if it is unincorporated, the facts and organizational documents relating to its formation;

(ii) The names and addresses of all of its officers and directors and a statement indicating any present affiliation each may have with a rail carrier; and

(iii) Sufficient information to establish the financial responsibility of the operator.

(2) The exact dates of the period of operation which have been agreed upon by the operator and the State which owns the line (if there is any agreement, it should be provided);

(3) A description of the service to be performed including, where applicable, a description of:

(i) The line over which service is to be performed;

(ii) All interline connections, including the names of the connecting railroads;

(iii) The nature and extent of all liability insurance coverage, including binder or policy number and name of insurer; and

(iv) Any preconditions which shippers must meet to receive service.

(4) The name and address of any subsidizers, and,

(5) Sufficient information to establish the financial responsibility of any subsidizers (if the subsidizer is a State, the information should show that it has authority to enter into the agreement for subsidized operations).

(c) The service offered and the applicable rates, charges, and conditions must be described in tariffs published by the operator pursuant to the Commission's rules.

§ 1120A.4 Termination of service.

The duration of the service may be determined in the contract between the State and the operator. An operator may not terminate service over a line unless it first provides 60 days' notice of its intent to terminate the service. The notice of intent must be: (a) Filed with the State and the Commission, and (b) mailed to all persons that have used the line within the 6 months preceding the date of the notice.

[FR Doc. 80-25081 Filed 8-18-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1249

[No. 37211]

Revision of Annual Report Form M-3

AGENCY: Interstate Commerce Commission.

ACTION: Discussion of comments of final rule.

SUMMARY: On January 18, 1980, the Commission issued a final rule which modified Form M-3 the annual report form for Class III motor carriers of property (see 45 FR 3588). Form M-3 was modified to reduce the amount of information which carriers were required to file. This action was taken because the Commission determined that it did not need most of the information contained in the form.

This notice discusses comments received as a result of that final rule. The Commission has considered that rule, in light of the information contained in the comments, and has concluded that there is no need to modify the rule.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., Chief, Section of Accounting and Reporting, (202) 275-7448.

SUPPLEMENTARY INFORMATION: On January 18, 1980, the Commission issued a final rule which modified Form M-3 the annual report form for Class III motor carriers of property (see 45 FR 3588). Form M-3 was modified to reduce the amount of information which carriers were required to file. This action was taken because the Commission determined that it did not need most of the information contained in the form.

As a result of our action, we received a number of comments from insurance companies which claimed that we had eliminated data from Form M-3 which the insurance industry needs. The comments indicated that the lack of this information would make it more difficult for Class III motor carriers to obtain and to renew their insurance policies. Furthermore, the insurance companies predicted that it would cost them more to obtain the information elsewhere and that this increased cost might result in higher premiums for the carriers. The National Association of Regulatory Utility Commissioners, the National Small Shipments Traffic Conference, and the Drug and Toilet Preparation Traffic Conference, Inc. also claimed that the loss of financial information previously required, is necessary for insurance companies to determine the financial health of motor carriers. They expressed the concern that since

insurance companies depend on Form M–3 in assessing the risks of carriers, they would become unwilling to provide coverage at previous rates. They also expressed concern that many states require Form M–3 for their regulatory agencies, which have come to depend on this information.

We recognize that the data previously included in Form M–3 was useful to the insurance industry, but we believe that the Commission should only require the carriers it regulates to report information that the Commission needs and uses itself. We believe that there are other means by which the insurance companies can obtain the information which they need; in fact, they should be able to obtain it directly from the carriers themselves. If the result is an increase in the administrative costs of the insurance companies which leads to an increase in the premium paid by the carriers, this increased cost will be offset by the reduction in the costs the carrier incurs complying with the Commission's data filing requirements.

State regulatory agencies, having the need for financial information no longer required in Form M–3 should required such data directly for themselves. The reliability of this information should not be impaired. Previous Commission policy has not been to audit Class III carriers. State regulatory agencies should have authority to require such data, and should do so if needed.

The American Trucking Association (ATA) also filed comments in opposition to the revision of Form M–3. However, the issues raised by ATA were not relevant to the changes made to Form M–3. They questioned the reporting requirements of carriers covered in Commission Decision Ex Parte No. MC–118. These requirements have not been changed by this proceeding, and this proceeding is not the proper place for their comments or suggestions.

Having thoroughly reviewed the comments filed in response to the final rule, we conclude that the respondents have not raised any issues which require any modification of the action which we took in this proceeding on January 18, 1980.

This action does not affect significantly the quality of the human environment or the conservation of energy resources.

Decided June 24, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam. Vice Chairman Gresham concurs in the result, but would have preferred a notice and comment period before adopting final rules, as noted in his prior separate expression. Commissioner Clapp concurring with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Clapp, Concurring:

I support simplification and reduction in filing requirements for small motor carriers. Therefore, I agree that filing requirements should be lessened (as the Revised Form M–3 would do). On the other hand, I recognize that the revision may not be without cost to small carriers and ultimately to consumers. I am concerned about the revised form's effect on a small carrier's ability to obtain insurance. I foresee added costs and difficulties for insurance companies in obtaining, and in ascertaining reliability of, data submitted not to the Commission in verified form, but rather to the insurance companies directly or to them through some data collection company. For this reason I would monitor the situation closely and should the shortened reporting form prove detrimental to small carriers' services or to the public interest at large, I would favor return to a longer form in order to obtain the information necessary to insurers.

[FR Doc. 80–25090 Filed 8–18–80; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

National Wildlife Refuges in Washington; Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulations.

SUMMARY: The Director has determined that the opening to hunting of certain National Wildlife Refuges in Washington is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document establishes special regulations effective for the upcoming hunting seasons for migratory game birds, upland game, and big game.

DATES: September 1, 1980 to June 30, 1981.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT: Joseph R. Blum, Area Office Manager, U.S. Fish and Wildlife Service, 2625 Parkmont Lane, Olympia, Washington 98502, Telephone: FTS, 434–9578 or 9579, Com'l., (206) 753–9578 or 9579.

SUPPLEMENTARY INFORMATION: 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 no area of the refuge system is used for forms of recreation not directly related to 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 National Wildlife Refuge(s) were 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. Funds are available for the administration of the recreational activities permitted by these regulations.

Hunting is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 32 and the following Special Regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions and maps applying to individual refuges are available as pamphlet handouts at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Mulnomah Street, Portland, Oregon 97232. Hunting shall be in accordance with all applicable State regulations subject to the following conditions:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

1. Doves, pigeons, ducks, geese, coots and common snipe may be hunted on the following refuge areas: *Conboy Lake National Wildlife Refuge*, Box 5, Glenwood, Washington 98619. Contact Refuge Manager at 509–364–3410.

2. Ducks, geese, coots and common snipe may be hunted on the following refuge areas: *Columbia National Wildlife Refuge*, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at 509–488–2668.

Special Conditions:

A. In Marsh Unit I hunting is allowed by permit only within 50 feet of designated blind sites on Wednesdays, Saturdays and Sundays until 12:00 noon. No more than four hunters may hunt at a blind site. After noon on Wednesdays, Saturdays and Sundays the area is open to general hunting without a permit.

B. In Farm Unit 226–227 hunting is allowed by permit only from designated pit blinds on Wednesdays, Saturdays and Sundays. Mo more than two hunters may hunt from each blind.

C. Permit applications will be accepted only on standard post cards and must provide:

(a) name, address and telephone number;

(b) desired hunt area (one only, MU–I or FU226–227); and

(c) desired date (one only).

No more than one application is allowed per hunter for a specific hunt date. Applications must be received at the refuge office at least two weeks before the desired hunt. Public drawings will be held at 10:00 a.m. of the first workday of the week before the hunt. Any remaining vacancies will be filled on a first come, first-serve basis at the Othello office until 3:00 p.m. of the last workday before the hunt. Permits are not transferable.

D. Temporary blinds may be constructed but must be available for general use on a first-come, first-serve basis.

E. Decoys may not be left, set up for hunting, on the refuge overnight.

F. Dogs may be used to retrieve birds but must be kept leashed when not hunting.

G. Parking is allowed only in designated areas; camping and overnight parking are permitted only in Soda Lake Campground.

H. Fires are allowed in camp stoves only.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948. Contact Refuge Manager at (509) 865–2405.

Special Conditions: Hunters using the Pumphouse Road and Robbins Road areas must register at respective parking areas and shoot from designated sites only.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at (503) 922–3232.

Columbian White-Tailed Deer National Wildlife Refuge, Route 1, Box 378C, Cathlamet, Washington 98612. Contact Refuge Manager at (206) 795–4915.

3. Ducks, geese and coots may be hunted on the following refuge areas:

Ridgefield National Wildlife Refuge, P.O. Box 457, Ridgefield, Washington 98642. Contact Refugee Manager at (206) 887–4071. Special conditions: (1) Hunting will be allowed every other day during the regular waterfowl season, except for Thanksgiving, Christmas and New Years Days. (2) A federal permit, available from the refuge office, is required to enter the public hunting area before 10:00 a.m. Permit applications will be accepted only from September 15 through October 1 for the first half of the regular waterfowl season (opening day to November 30), and only from November 1 through November 15 for the second half of the regular waterfowl season (December 1 to closing day). Permits will be issued only by mail. (3) Hunters may shoot only from blinds selected by drawing at the check station. A recreational use fee of $5.00 will be charged for each hunter's use of a blind. Fee for holders of Golden Age Passport is $2.50. (4) Only steel shot may be possessed or used on the refuge hunting area.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at (206) 484–3482.

Lewis and Leadbetter Point Units, Special conditions: Hunter registration is required. Leadbetter Point is the only refuge unit open to black brant hunting after the close of the general season.

Riekkola Unit, Special conditions: (1) Hunters will be permitted only on Wednesdays and Saturdays, except for Christmas and New Years Days, during the regular waterfowl season. (2) Hunter registration is required. (3) Hunters may shoot only from blinds selected by drawing at the check station. A recreational use fee of $5.00 will be charged for each hunter's use of a blind. Fee for holders of Golden Age Passport is $2.50.

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Washington 99323. Contact Refuge Manager at (509) 547–4942. Special Conditions: (1) Hunters are required to park vehicles in designated parking areas only. (2) On Burbank Slough, hunting will be permitted on Wednesday, Saturday, Sunday and Thanksgiving Day only. No additional hunting will be permitted during the State extended goose hunting season. In the north and south one-thirds of hunting area, hunting is from marked sites only. Reservations are required for use of goose hunting sites in fields 5 and 6. (3) On the Hanford Island Division, hunting is permitted only on the five upstream islands from opposite the Hanford 300 area-Sagemoore Road upstream to BPA power line crossing. The Hanford Island offshore from the Graduate Center, Sprout Road is closed to hunting. (4) All public use on the Strawberry Island Division and the two Columbia River islands within the Richland city limits is prohibited.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Upland game birds and rabbits may be hunted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at (509) 488–3831. Special Conditions: Rabbits and upland game birds may be hunted only during that part of the State season concurrent with the waterfowl hunting season. Hunting is allowed only in those areas open to waterfowl hunting subject to the permit requirements of Marsh Unit I and Farm Unit 226–227.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at (503) 922–3232. Special Condition: No rabbit hunting permitted.

Conboy Lake National Wildlife Refuge, Box 5, Glenwood, Washington 98619. Contact Refuge Manager at (509) 363–3410. Special Condition: Rabbits and upland game may only be hunted during the part of the State season concurrent with the waterfowl hunting season.

Toppenish National Wildlife Refuge, Route 1, Box 1300, Toppenish, Washington 98948. Contact Refuge Manager at (509) 865–2405. Special Condition: Rabbits and upland game may only be hunted during that part of the State season concurrent with the waterfowl hunting season.

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at (206) 484–3482.

Long Island Unit, Special conditions: (1) Archery hunting for blue and ruffed grouse only. (2) Hunters must register and possess hunting permit. Permits available at refuge headquarters and at the Nahcotta dock.

McNary National Wildlife Refuge, P.O. Box 308, Burbank, Washington 99323. Contact Refuge Manager at (509) 547–4942. Special Conditions: (1) Pheasants only may be hunted during the first half of the State's split season or through November 6, whichever is earlier. (2) Pheasant hunting will be restricted to Wednesday, Saturday, and Sunday. (3) Hunters are required to park vehicles in designated parking areas only.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

1. All big game hunting regulated by the State is permitted on the following refuge area;

Little Pend Oreille National Wildlife Refuge, Route 1, Colville, Washington 99114. Contact Refuge Manager at (509) 684–2824.

2. Deer hunting only is permitted on the following refuge areas:

Columbia National Wildlife Refuge, P.O. Drawer F, Othello, Washington 99344. Contact Refuge Manager at (509) 488–3831. Special conditions: Deer may be hunted only in those areas open to waterfowl hunting subject to the permit requirements of Marsh Unit I and Farm Unit 226–227.

Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882. Contact Refuge Manager at (503) 922–3232.

3. Bear, deer, and elk may be hunted on the following refuge areas:

Willapa National Wildlife Refuge, Ilwaco, Washington 98624. Contact Refuge Manager at (206) 484–3482.

Long Island Unit, Special conditions: (1) Archery hunting only is permitted. (2) Hunters must register and possess hunting permit. (3) Permits available at refuge headquarters and at the Nahcotta Dock. (4) Use of bait or baiting for bears is prohibited. (5) All garbage must be removed from the island.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

The primary author of this document is John H. Doebel, Area Office Staff Specialist (Wildlife): Telephone FTS 434–9578 or 9579, Com'l (206) 753–9578 or 9579.

Dated: August 7, 1980.

Joseph R. Blum,

Area Manager, U.S. Fish and Wildlife Service.

[FR Doc. 80–25241 Filed 8–18–80; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 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 1065

[Docket No. AO-86-A39-R01

Milk in the Nebraska-Western Iowa Marketing Area; Extension of Time for Filing Exceptions to the Revised Recommended Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This action extends the time for filing exceptions to a revised recommended decision concerning a proposed amended order regulating the handling of milk in the Nebraska-Western Iowa marketing area. Counsel for Associated Milk Producers, Inc., requested additional time to complete an analysis of the decision.

DATE: Exceptions now are due on or before September 15, 1980.

ADDRESS: Exceptions (four copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-7183).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing: Issued September 29, 1978; published October 4, 1978 (43 FR 45881).

Extension of time for filing briefs: Issued January 15, 1979; published January 19, 1979 (44 FR 3989).

Recommended Decision: Issued July 24, 1979; published July 30, 1979 (44 FR 44523).

Extension of time for filing exceptions: Issued August 13, 1979; published August 16, 1979 (44 FR 47950).

Notice of reopening of hearing: Issued October 1, 1979; published October 4, 1979 (44 FR 57103).

Revised recommended decision: Issued July 24, 1980; published July 31, 1980 (45 FR 50773).

Notice is hereby given that the time for filing exceptions to the above listed revised recommended decision is hereby extended to September 15, 1980.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on: August 13, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-25086 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-02-M

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Proposed Statement of Policy—National Environmental Policy Act

AGENCY: Farm Credit Administration.

ACTION: Proposed Statement of Policy.

SUMMARY: The National Environmental Policy Act (NEPA), (42 U.S.C. 4321 *et seq.*) requires Federal agencies to include environmental concerns in their decisionmaking. Under Executive Order 11991, May 24, 1977 (42 FR 26967), the Council on Environmental Quality (CEQ) was directed to issue regulations to Federal agencies for the implementation of the procedural provisions of NEPA. The Executive Order also required Federal agencies to comply with CEQ's regulations "except where * * * inconsistent with statutory requirements." On November 29, 1978, CEQ published (43 FR 55978) final regulations for implementing the procedural provisions of NEPA. CEQ's regulations (40 CFR Parts 1500-1508) require that "* * * each agency shall as necessary adopt procedures to supplement these regulations" (40 CFR 1507.3(a)). This policy statement constitutes compliance by FCA with this requirement.

DATES: Written comments must be received on or before October 20, 1980.

ADDRESSES: Submit any comments or suggestions in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, D.C. 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Larry H. Bacon, Acting Deputy Governor, Office of Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20578, (202-755-2181).

Statement of Policy—

The Farm Credit Administration (FCA) is required, pursuant to 40 CFR 1507.3(a), to adopt, as necessary, procedures to supplement regulations issued by the Council on Environmental Quality (CEQ) (40 CFR Parts 1500-1508). Those regulations were adopted by CEQ to implement the procedural provisions of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*).

The FCA has responsibility for supervising, regulating and examining the lending institutions of the cooperative Farm Credit System under the provisions of the Farm Credit Act of 1971, 12 U.S.C. 2001 *et seq.* in carrying out those responsibilities, the Agency attempts to assure that the stated statutory objective is achieved. That objective is: "to continue to encourage farmer- and rancher-borrowers participation in the management, control, and ownership of a permanent system of credit for agriculture which will be responsive to the credit needs of all types of agricultural producers having a basis for credit and to modernize and improve the authorizations and means for furnishing such credit and credit for housing in rural areas made available through the institutions constituting the Farm Credit System * * *" 12 U.S.C. 2001(b).

Because the activities of the FCA ordinarily do not, either individually or cumulatively, have a significant effect on the human environment, it is not necessary for FCA to set forth separate procedures to provide early involvement in action requiring FCA approval (40 CFR 1501.2(d)); nor to adopt procedures for introducing supplemental environmental impact statements into formal administrative records (40 CFR

1502.9(c)(3)); nor to provide procedures where interested persons can get information or status reports on environmental impact statements (40 CFR 1506.6(e)). In accordance with 40 CFR 1507.3(b)(2) and 1508.4, FCA believes that none of its actions will normally require the preparation of environmental assessments or environmental impact statements.

However, where it appears that, due to extraordinary circumstances, a particular action may have a significant effect on the human environment, FCA will determine whether NEPA requires additional consideration of the environmental impact of a particular action. An official will be designated at the FCA Headquarters to review such considerations prior to FCA action. Where a particular action requires environmental analysis, the relevant environmental documents will be prepared and placed in the administrative record. The documents shall accompany the proposal through the existing agency review process so that agency officials will use those documents in making their decision, and the decisionmaker will consider the alterntives presented in those environmental documents. In addition, interested members of the public may raise objections to proposed actions by FCA based upon environmental considerations.

Interested persons may submit comments and views on the effect of FCA's actions on the human environment, and may seek information concerning FCA's compliance with the National Environmental Policy Act, by writing to Frederick R. Medero, General Counsel of the Farm Credit Administration at the address stated above.

Donald E. Wilkinson,

Governor.

[FR Doc. 80-25156 Filed 8-18-80; 8:45 am]

BILLING CODE 6705-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Month-End Financial Statements for Credit Unions

AGENCY: National Credit Union Administration.

ACTION: Request for comment on Proposed Statement of Financial Condition and Statement of Income and Expense.

SUMMARY: Federal credit unions are required to complete certain financial statements at the end of each month and to post these statements in the credit union office for review by members and other interested parties. The most important of these financial statements are the Statement of Financial Condition and the Statement of Income and Expense.

Suggested forms to be used for this purpose are contained in the *Accounting Mannual For Federal Credit Unions.* The proposed forms would replace these existing forms: FCU 109A, Statement of Financial Condition, FCU 109B, Statement of Income, FCU 109F, Statistical Report, and FCU 109 (COMB 75), Report of Operations. In addition the proposed form would also serve as the basis for any periodic call reports requested by the Administration; as such it would replace the major portion of form NCUA 5300, Financial and Statistical Report.

The development of this multipurpose form is an effort to reduce the overall reporting burden on credit unions. The data which would be reported on the proposed form should meet the needs of the credit unions for financial reporting purposes and the Agency's data needs for statistical and analytical purposes.

DATE: Comments must be received by September 15, 1980.

ADDRESS: Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW; Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Mike Fischer, Chief Accountant, Office of Examination and Insurance, at the above address. Telephone (202) 357-1065.

SUPPLEMENTARY INFORMATION: In accordance with Article VIII of the *Federal Credit Union Bylaws,* Federal credit unions are required to complete certain financial statements at the end of each month and to post these statements in the credit union office for review by members and other interested parties. The most important of these financial statements are the Statement of Financial Condition and the Statement of Income and Expense. Suggested forms to be used for this purpose are contained in the *Accounting Manual for Federal Credit Unions.* The existing forms are: FCU 109A, Statement of Financial Condition, FCU 109B, Statement of Income, FCU 109F, Statistical Report, and FCU 109 (COMB 75), Report of Operations.

In addition under Sections 106 and 202 of the Federal Credit Union Act (12 U.S.C. 1756 and 1782), Federal and Federally Insured credit unions are required to file periodic reports with the National Credit Union Administration. The form currently used for this purpose is form NCUA 5300, Financial and Statistical Report.

Set forth below are preliminary copies of the Statement of Financial Condition and Statement of Income and Expense which are proposed as replacements for existing forms: FCU 109A, Statement of Financial Condition, FCU 109B, Statement of Income, FCU 109F, Statistical Report, and FCU 109 (COMB 75), Report of Operations. The forms contain certain changes which reflect credit unions' expanded powers and other changes which provide the use of the statements with more information regarding the liquidity position of the credit union.

The revised forms are multipurpose forms which not only provide more useful information to credit union members and management but also serve the National Credit Union Administration's needs for data gathering for statistical and analytical purposes. Credit unions which use the proposed forms for reporting to members on a monthly basis would be able to meet the basic reporting requirements of this Agency by furnishing a photocopy of the form which is prepared on a monthly basis. These credit unions would only need too prepare an additional form when supplementary data is requested. The basic call report would be identical to the monthly financial reports.

The Administration intends to consolidate existing, credit union reporting forms and to improve the usefulness and timeliness of credit union data. To that end the forms have been highly structured so that they may serve as source documents for data entry into computer systems. The structured approach will also facilitate comparability between credit unions.

Comments are requested on the clarity of instructions and the extent to which the forms meet the needs of users. Specific suggestions to improve the readability and ease of preparation will be appreciated.

(Sec. 508, 92 Stat. 3683 (12 U.S.C. 1756); sec. 1 (3), 84 Stat. 995 (12 U.S.C. 1782))

Rosemary Brady,

Secretary of the Board.

August 13, 1980.

BILLING CODE 7535-01-M

STATEMENT OF FINANCIAL CONDITION AS OF _____

Charter # or Ins. Cert. # _____ CREDIT UNION

ASSETS:

LOANS & CASH	$ Amount	¢	$ Amount	¢	Acct. code no.
1. a. Outstanding balances of lines of credit loans to members					702
b. Real estate loans to members (first lien) (Orig maturity over 12 years)					703
c. Loan balances fully secured by shares					650
d. All other loans to members (excluding a,b,c, above)					651
e. Total loans to members (include items a, b, c, and d)					698
2. All other loan accounts (excluding amts. in 1,a,b,c,&d)					001
3. (Less) allowance for loan losses					719
4. Net Loans Outstanding					700
5. Cash (cash on hand, petty cash, checking accts., etc.)					730

INVESTMENTS (A + B = C)

	Remaining Maturities A. 1 Yr. or less	B. More than 1 Yr.	C. Total $	¢	
6. U.S. Government Obligations					741
7. Federal agency securities					742
8. Common trust investments (ICU NIFCU's, etc.)					743
9. Shares, deposits & certif. in corporate centrals					652
10. Shares, deposits & certif. in banks, S&L's & MSB's					746
11. Shares, deposits & certif. in other CUs					653
12. Loan to other credit unions					747
13. Shares in Central Liquidity Facility					654
14. All other investments					655
15. (Less) allowance for investment losses					749
16. Net Investments					

OTHER ASSETS

17. Land and building (net of depreciation)			007
18. Other fixed assets (net of depreciation)			008
19. All other assets			009
20. TOTAL ASSETS			010

LIABILITIES SAVINGS EQUITY

Distribution of Notes/Interest Payable (A + B = C)	Remaining Maturities A. 1 yr. or less	B. More than 1 yr.	C. Total $	¢	Acct. code no.
21. Promissory notes					011
22. Reverse Repurchase Agreements					058
23. Other notes/Interest Payable					656
24. Accounts payable					800
25. Dividends/Interest on shares/deposit payable					820
26. All other liabilities					012
27. Total Liabilities					

	Remaining Maturities A. 1 yr. or less	B. More than 1 yr.	C. Total $	¢	Acct. code no.
28. a. Share certif.					908
b. Share draft accounts					902
c. Other member savings/deposits					657
d. Non-member Savings					
e. Total savings/shares/deposits					013
29. Regular/statutory reserve					931
30. Investment Valuation reserve (SCU's only)					668
31. Special Reserves					
32. Other reserves					658
33. Undivided Earnings					940
34. Net Income (Loss)					960
35. TOTAL LIABILITIES & EQUITY (Sum of 27, 28e, & 29 - 34) (35 must be equal to 20)					014

CLASSIFICATION OF LOANS OUTSTANDING

	A. Number	B. $ Amount	¢	
36. 2 to less than 6 months delinquent				021
37. 6 to less than 12 months delinquent				022
38. 12 months and over delinquent				023
39. Current and less than 2 months delinquent				024
40. Total loans (must be = to item 1e plus 2)				025

Charter # or Ins. Cert. #

OPERATING INCOME:	AMOUNT from ____ to ____	Year to date	Acct. code no.
41. Interest on Loans (Gross)			110
42. (Less) interest refunded			119
43. Income from investments			120
44. Other operating income (include acct. 131)			659
45. TOTAL GROSS INCOME			100
OPERATING EXPENSES:			
46. Employee compensation (Accts. 210-219)			210
47. Employee benefits (Accts. 220-229)			220
48. Travel & conference expense(Accts. 230-239)			230
49. Association dues			240
50. Office occupancy expense (Accts. 250-259)			250
51. Office operations expense (Accts. 260-269)			260
52. Educ. & promotional exp. (Accts. 270-279)			270
53. Loan servicing expense (Accts. 280-289)			280
54. Prof. & outside services (Accts. 290-299)			290
55. Provision for loan losses			300
56. Member insurance (Accts. 310-319)			310
57. Oper. fees (exam. & super fee)(Accts. 320-329)			320
58. Cash over and short			330
59. Interest on borrowed money			340
60. Annual meeting expense			350
61. Misc. operating expense			360
62. Total Oper. Exp. Before Div. & Int. on Dep (Total of items 46 to 61)			660
63. Net Inc. (Loss) Before Div. & Int. on Dep (Item 45 less 62)			661
NON-OPERATING GAINS OR LOSSES			
64. Gain (loss) on investments			420
65. Gain (loss) on disposition of assets			430
66. Other non-operating income (expense)			440
67. Total non-operating gains and losses			017
ALLOCATION OF INCOME			
68. Total Net Income (Loss)before div & int/dep			019
69. Dividends & interest on deposits			380
70. Net Income (Loss) after div & int/dep			662
71. (Less) Req. trans to reg. or stat. reserve			
72. Provision for loan losses adjustment			
73. Change to Undivided Earnings as a Result of Operations			

STATEMENT OF INCOME AND EXPENSE FOR _____

_____ CREDIT UNION

MISCELLANEOUS INFORMATION		
74. Maximum unsecured loan limit		044
75. Interest refund rate, if applicable (most common rate)		663
76. Dollar amount of forward commitments to purchase (securities,etc.)		669
77. Number of members at end of month		083
78. Number of potential members		084
79. Effective date of the most recent supervisory committee verification of all members accounts ____ (Month) ____ (Year)		665
80. Effective date of the most recent supervisory committee annual audit ____ (Month) ____ (Year)		666
81. Are individual share and loan ledgers in balance with their respective general ledger control: [ ] Yes [ ] No		667

OTHER LOAN INFORMATION:	A. Number	B. $ Amount	¢	Acct. code no.
82. Total loans made during current year (include real estate loans)				031
83. Real estate loans made during current year				670
84. Loans sold and being serviced by the credit union				
85. Total loans made since organization				032
86. Total loans charged off since organization				033
87. Recovery of loans charged off since organization				034
88. Net loans charged off since organization				

We certify, to the best of our knowledge and belief, this statement and the related statements are true and correct and present fairly the financial position and the results of operations for the periods covered.

Certified correct by: _____ (Please print)

_____ Treasurer-Manager (Signature) Date

_____ President/Authorized Officer

Telephone No. _____ (Area Code) (Number)

_____ Date

Notes to Financial Statements

BILLING CODE 7535-01-C

Instructions for Completing FCU 109

Item and Assets

1a—Outstanding Balances of Lines of Credit Loans to Members. (Acct. 702). Report the outstanding balances as of the report date in all approved line of credit accounts to members.

1b—Real Estate Loans. (Acct. 703). The total amount of first lien real estate loans to members outstanding as of the report date should be recorded in this account. Only those loans with original maturities in excess of 12 years should be reported on this line.

1c—Loan Balances Fully Secured By Shares. Report the amount of loans to members outstanding as of the report date that are completely secured by shares.

1d—All Other Loans to Members. This amount should be the residual of loans to members after lines of credit, real estate loans, and loan balances fully secured by shares have been deducted.

1e—Total Loans to Members. Include all loans to members (including Lines of Credit, Real Estate Loans and Loans fully secured by shares) outstanding as of the report date. Do not include loans to other credit unions which are reported in the investment section.

2—All Other Loan Accounts. Represents all other loan accounts of the credit union such as loans involving repossession of collaterial, any note or contract receivable resulting from the sale of assets acquired in liquidation of loans and similar accounts, if any. Do not include loans to other credit unions which are reported in the investment section.

3—(Less) Allowance for Loan Losses. (Acct. 719). This item, if applicable to your credit union, represents the amount set aside by the credit union which is necessary to absorb possible losses on loans. This should not include amounts reported in items 29 through 32 as reserves.

4—Net Loans Outstanding. This represents the value of loans outstanding net of the allowance for loan losses. Add items 1e and 2 and subtract item 3.

5—Cash. (Acct. 730). This account represents cash on hand, petty cash, checking accounts, etc.

6—U.S. Government Obligations. (Acct. 741). Represents the "book value" of credit union funds invested in obligations of the united States which are fully guaranteed as to both principal and interest. The amounts reported in 6A plus 6B must equal the amount in 6C.

7—Federal Agency Securities. (Acct. 742). Represents the "book value" of credit union funds invested in agency securities and participation certificates which are secured by collateral owned by these agencies. The amount reported in 7A plus 7B must equal the amount in 7C.

8—Common Trust Investments. (Acct. 743). Represents the "book value" of credit union funds placed in common trust fund investments such as ICU, NIFCUS, etc. The amounts reported in 8A plus 8B must equal the amount in 8C.

9—Shares, Deposits and Certificates Invested in Corporate Central Credit Unions. Report the total amount of shares, deposits and certificates invested in Corporate Central Credit Unions as of the report date. The amounts reported in 9A plus 9B must equal the amount in 9C.

10—Shares, Deposits and Certificates in Banks, S&L's and Mutual Savings Banks. (Acct. 746). Represents the amounts of outstanding shares, deposits and certificates invested in Banks, S&L's and MSB's as of the report date. The amounts reported in 10A plus 10B must equal the amount in 10C.

11—Shares, Deposits and Certificates in Other Credit Unions. Represents the amount as of the report date of credit union funds invested in shares, deposits and certificates of other credit unions, excluding corporate central credit unions. The amounts reported in 11A plus 11B must equal the amount in 11C.

12—Loans to Other Credit Union. (Acct. 747). Represents the amount outstanding of loans made to other credit unions as of the report date. The amounts reported in 12A plus 12B must equal the amount in 12C.

13—Total Shares in the Central Liquidity Facility. Represents the total amount of shares invested directly in the Central Liquidity Facility as of the report date.

14—All Other Investments. This amount should reflect all other investments other than those listed above, as of the report date.

15—(Less) Allowance for Investment Losses. (Acct. 749). This items, if applicable to your credit union, represents the amount set aside to absorb possible losses in the liquidation of investments.

16—Net Investments. This represents the sum of items 6 through 14 less 15.

17—Land and Building (Net). Represents the amount of land and building less depreciation on building, if any.

18—Other Fixed Assets. Represents all other fixed assets of the credit union such as furniture and fixtures, leasehold improvements, less related depreciation items, if any.

19—All Other Assets. Represents all other assets of the credit union not included in the above items. Includes such items as prepaid expenses and insurance, accounts receivable, accrued income, etc.

20—Total Assets. Represents the sum of items 4, 5, 16, 17, 18, and 19 (total columns).

Item and Liabilities/Savings/Equity

21—Promissory Notes (Certificates of Indebtedness). Report the amount of funds borrowed by your credit union from individuals for which you issued a promissory note (CI). The amounts reported in items 21A plus 21B must equal the amount in 21C.

22—Reverse Repurchase Agreements. Report the outstanding balance of funds borrowed by the credit union from any source, using its securities as collateral on the loans.

23—Other Notes/Interest Payable. Represents the amount of liability of the credit union for borrowed funds, other than those reported in items 21 and 22. The amounts reported in items 23A plus 23B must equal the amount in item 23C.

24—Accounts Payable. (Acct. 800). Represents all accounts payable of the credit union such as undistributed payments, undistributed payroll deductions, etc.

25—Dividends/Interest on Shares/Deposits Payable. (Acct. 820). This account should reflect the total amount of dividends/interest on shares/deposits payable that are declared for the last dividend period and not paid.

26—All Other Liabilities. This is a balancing item and represents all other liability accounts that are not shown separately. Include such items as taxes payable, accrued expenses, deferred income, etc.

27—Total Liabilities. This represents the sum of items 21 through 26 (Total Column).

28a—Share Certificates. Represents the total amount of regular, Money Market, Jumbo and other share certificates held by your credit union members, if any. The sum of the amounts in the two maturity categories for share certificates must be equal to the total.

28b—Share Draft Accounts. Represents the total amount outstanding of share draft accounts held by your credit union members.

28c—Other Member Savings/Deposits. The amount represents the total member savings in the credit union, excluding share draft accounts and share certificates.

28d—Non-member Savings. This represents the total amount of non-member savings in the credit union.

28e—Total Savings/Shares/Deposits. Represents the sum of amounts held in all savings/shares/deposits accounts of members and non-members. Includes Share Certificates, Share Draft Accounts, Public Unit Accounts, Retirement Plans and special share accounts such as Christmas and Vacation accounts, if any. The sum of the Total Columns of items 28a, 28b, 28c, and 28d must equal 28e.

29—Regular/Statutory Reserve. (Acct. 931). Represents the statutory (regular) reserve balance as of the report date.

30—Investment Valuation Reserve (SCU's only). Represents the reserves to cover the excess of Book Value over Market Value for investments other than those authorized for Federal credit unions by Section 107 of the Federal Credit Union Act.

31—Special Reserves. This represents any other reserves required by regulation, special agreement or order of the credit union's supervisory authority.

32—Other Reserves. Represents the sum of other reserve accounts (excluding amounts in items 29, 30 and 31) such as reserve for contingencies, additional reserves for losses, insurance reserves, etc.

33—Undivided Earnings. (Acct. 940). Represents the total amount of accumulated income or suplus of the credit union. Should not include the amount of dividends and interest on deposits paid or payable which are reported in item 25.

34—Net Income (Loss). Represents the net income (loss) from operations.

Item and Liabilities/Savings/Equity

35—Total Liabilities, Savings, and Equity. Represents the sum of amounts in items 27, 28e and 29 through 34.

Item and Classification of Loans Outstanding

36–40—Classification of Loans Outstanding. This section calls for the reporting of the number and amount of delinquent loans, current and less than two months delinquent, and the total number and amount of loans outstanding including line of credit balances, if any. Information on loans delinquent should be taken from a schedule of delinquent loans as of the report date.

The following income and expense items should reflect totals for the periods.

Item and Operating Income

41—Interest on loans (Gross). (Acct. 110–118). Represents the total amount of income from interest on loans.

42—(Less) Interest Refunded. (Acct. 119). Represents the total amount of interest refunded.

43—Income from Investments. Represents the total amount of income earned on investments.

44—Other Operating Income. Represents all operating income other than income on loans and income from investments received by the credit union.

45—Total Gross Income. Represents the sum of items 41, 43, 44 minus item 42.

Item and Operating Expenses

46—Employee Compensation. (Acct. 210–219). Represents the total amount of salaries paid to employees of the credit union, including the treasurer, if paid. Also includes reimbursement to sponsor when credit union employees are on the sponsor company's payroll.

47—Employee Benefits. (Acct. 220–229). Represents all expenses of the credit union that relate to employee benefits. Includes such items as pension plan costs, employer's social security taxes, unemployment compensation taxes, and other benefits provided to employees.

48—Travel and Conference Expense. (Acct. 230–239). Represents the amount of authorized expenses incurred by employees and officers (including the treasurer) for travel and attendance at conferences and other meetings.

49—Association Dues. (Acct. 240–249). Represents membership dues and other fees paid to credit union organizations of which the credit union is a member.

50—Office Occupancy Expense. (Acct. 250–259). Represents all expenses relating to occupying an office including rent, utilities (except telephone depreciation of building if owned by the credit union, real estate taxes, and if renting, amortization of leasehold improvements, if any.

51—Office Operation Expense. (Acct. 260–269). Represents all expenses relating to the operation of an office including communications, stationery and supplies, insurance, furniture rental and/or maintenance, depreciation, bank service charges, etc.

52—Educational and Promotional Expense. (Acct. 270–279). Represents expenses incurred for advertising in newspapers, periodicals, radio or television and publicity and promotions in education of members.

53—Loan Servicing Expense. (Acct. 280–289). Represents all expenses incurred in the servicing of loans such as collection expense, credit reports, recording fees, chattel lien insurance, etc.

54—Professional and Outside Services. (Acct. 290–299). Represents expenses incured by the credit union for such items as legal fees, audit fees, accounting services, and management and consultant fees.

55—Provision for Loan Losses. (Acct. 300–309). Represents the current period provision for all losses and related costs on loans and other receivables.

56—Member Insurance. (Acct. 310–319). Represents the cost of members' insurance, including premiums paid for life savings insurance, annual share insurance premium and borrowers protection insurance.

57—Operating Fees. (Acct. 320–329). Represents the NCUA annual operating fee, state supervision fee and the cost of periodic examinations assessed by NCUA or the State Supervisory Agency, if any.

58—Cash Over and Short. (Acct. 330–339). Represents the amount of tellers' cash overages and shortages where cash received vouchers for a day's business did not balance with the total cash receipts for that day.

59—Interest on Borrowed Money. (Acct. 340–349). Represents the interest cost to the credit union for borrowed money. Interest paid on member and non-member deposits (if authorized in your State) should be included in code 380, Dividends and Interest on Deposits.

60—Annual Meeting Expense. (Acct. 350–359). Represents all costs incurred by the credit union in connection with the annual meeting of shareholders; includes costs of hall rental, printing of notices, etc.

61—Miscellaneous Operating/ Expense. (Acct. 360–369). Includes all miscellaneous operating expenses for which no separate expense categories are listed.

62—Total Operating Expenses Before Dividends and Interest on Deposits. Represents the sum of all expense items listed above. (Items 46 through 61).

63—Net Income (Loss) Before Dividends and Interest on Deposits. Represents the total amount of income or loss resulting from operations (operating income less operating expenses). (Item 45 less item 62).

Item and Non-Operating Income and Expenses

64—Gain (Loss) on Investments. (Acct. 420). Report the amount of non-operating income or expense resulting from the gain or loss on investments.

65—Gain (Loss) on Disposition of Assets. (Acct. 430). Report the amount of non-operating income or expense resulting from the disposition of assets.

66—Other Non-Operating Income (Expense). (Acct. 440). Represents miscellaneous non-operating income or expenses.

67—Total Non-Operating Gains and Losses. The sum of items 64, 65, and 66.

68—Total Net Income (Loss) Before Dividends/Interest on Deposits. Represents the total amount of operating and non-operating income or loss before the deduction of dividends and interest on deposits. (Total of items 63 and 67).

Item and Allocation of Income

69—Dividends and Interest on Deposits. Report the total amount of dividends and interest on deposits paid or declared on all savings accounts. If dividends have not been declared enter the estimated amount which will be required based upon the anticipated dividend rate.

Item and Non-Operating Income, and Expenses

70—Net Income (Loss) After Dividends and Interest on Deposits. Item 68 less item 69.

71—Transfer to Regular or Statutory Reserve. Report the amount transferred from gross income to regular or statutory reserves.

72—Provision for Loan Losses Adjustment. Enter the lesser of the amount shown in the Provision for Loan Losses Expense (Item 55) or the Required Reserve transfer (item 71).

73—Change to Undivided Earnings as a Result of Operations. Item 70 less 71 plus 72.

Item and Miscellaneous Information

74—Maximum Unsecured Loan Limit. Represents the maximum loan amount given by your credit union that is unsecured.

75—Interest Refund Rate. Report the most common interest refund rate paid on refunds by your credit union during the current period.

76—Dollar Amt. of Forward Commitments to Purchase if your credit union is committed to purchase U.S. Government obligations or Federal agency securities at a future date, report the total commitment as of the report date.

77—Number of Members at End of Month. Enter the actual number of members of record as of the month end. Do not enter the number of accounts.

78—Number of Potential Members. Represents the number of actual members plus persons in the field of membership who have not yet joined the credit union. If the field of membership is stated in terms of the number of families, use an average of 3 persons per family to estimate the total potential membership.

79—Effective Date of Most Recent Supervisory Committee Verification of Members' Accounts. For example, report September 1980 as 09 80.

80—Effective Date of Most Recent Supervisory Committee Annual Audit. For example, report September 1980 as 09 80.

81—Balance of Share and Loan ledgers. Indicate whether or not your share and loan ledgers balance with their respective general ledger control.

Item and Other Loan Information

82—Total Loan Made During Current Year. Report the total number and amount of loans made during the current year.

83—Real Estate Loans Made During Current Year. Record the number and the outstanding dollar amount of loans sold to others which the credit union continues to service.

84—Loans Sold and Being Serviced by the Credit Union. Record the number and the outstanding dollar amount of loans sold to others which the credit union continues to service.

85—Total Loans Made Since Organization. Report the total number and amount of loans made since the organization of the credit union.

86—Loans Charged Off Since Organization. Represents the total amount of loans charged off since the credit union was organized. Loans charged off during the current year should be added to the amount reported on last year's year-end form to obtain the total charged off since organization as of the report date.

87—Recoveries on Loans Charged Off Since Organization. Represents the total amount of recoveries on previously charged off loans since the organization of the credit union. Add the amount recovered during the current year to last year's year-end total.

88—Net Loans Charged Off Since Organization. Represents items 86 less item 87.

[FR Doc. 80-25161 Filed 8-18-80; 8:45 am]
BILLING CODE 7535-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 802 3168]

Universal Bodybuilding, Inc., et al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, would require, among other things, a Redford, Mich. seller of various bodybuilding and self-improvement courses and products to cease from using adult models and testimonials in advertisments directed to non-adults; and advertising or promoting the sale of bodybuilding products or courses, unless it has tests or studies available which indicate that unsupervised use of its products will not be harmful to non-adults. The firm would be further prohibited from making any unfair, deceptive or unsubstantiated product claim in advertising or other promotional material; and required to maintain specified records for a particular period.

DATE: Comments must be received on or before October 20, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Thomas C. Armitage, Director, 10R Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal building, 915 Second Ave., Seattle, Wash. 98174. (206) 442-4655.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 802 3168]

Universal Bodybuilding, Inc., et al; Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission has initiated an investigation of certain acts and practices of Universal Bodybuilding, Inc., a corporation, and Morris Mitchell, an individual. It now appears that Universal Bodybuilding, Inc. and Morris Mitchell, sometimes referred to as respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between Universal Bodybuilding, Inc., a corporation, and Morris Mitchell, an individual, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed Universal Bodybuilding, Inc., is a Michigan corporation with its office and principal place of business located at 26903 West Eight Mile Road, Redford, Michigan 48240.

2. Proposed respondent Morris Mitchell is President of Universal Bodybuilding, Inc. and his address is the same as that of Universal Bodybuilding, Inc. He formulates, directs and controls the policies, acts and practices of Universal Bodybuilding, Inc. In particular, he is responsible for all advertising for Universal Bodybuilding, Inc.

3. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

4. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days. The Commission thereafter may withdraw its acceptance of this agreement and so notify the proposed respondents. In this event it will take such action as it may consider appropriate. The Commission also may issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute and admission by respondents that the law has been violated as alleged in the draft of the attached complaint.

7. If this agreement is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's rules, the Commission may, without further notice to proposed respondents, issue its complaint corresponding in form and substance with the draft of the attached complaint and its decision containing the following order to cease and desist in disposition of the proceeding. The Commission may also make public information pursuant to Rule 2.34. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Proposed respondents have read the proposed complaint and order. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

This order applies to respondent Universal Bodybuilding, Inc., a corporation, its successors and assigns and its officers, agents, representatives and employees, in connection with offering for sale, sale or distribution of any bodybuilding, muscle-building or other self-improvement products, devices or courses directly or through any corporation, subsidiary, division, or other device in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended. This order applies to respondent Morris Mitchell in connection with advertising, offering for sale, sale or distribution of any bodybuilding, muscle-building or other self-improvement products, devices or courses in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, and amended. This order shall not apply to Morris Mitchell insofar as he is involved only in the bona fide sale of advertising services to businesses which are not involved in the sale or offering for sale of any bodybuilding, muscle-building, or other self-improvement products, devices or courses and in which he or members of his immediate family have no financial interest.

For purposes of this order "non-adults" shall mean persons under 17 years of age. Advertisements directed to non-adults shall mean all advertisements and promotional material:

1. Whose dominant appeal is to non-adults;

2. Mailed directly to a person who respondent has reason to believe is a non-adult; or

3. Disseminated in publications whose audience for the prior 12 months was composed of a majority of non-adults. Such publications shall include all comic books, *Mad Magazine, Boy's Life, Children's Digest* and *Jack and Jill.* This list is intended to be representative of publications covered by this order but not exclusive.

It is ordered, That in all advertisements directed to non-adults respondents cease and desist from:

A. Advertising or in any way promoting the sale of body-building or muscle-building products, devices or courses (hereafter referred to as products) until respondents have available and rely on competent scientific or medical tests or studies adequate to show that use of the products without appropriate supervision will not be harmful to non-adult consumers.

B. Using pictures or drawings of adults or professional models to promote the sale of bodybuilding or musclebuilding products.

C. Making any representation, directly or by implication, unless, at the time the representation is made, respondents have, and rely on, substantiation sufficient to provide a reasonable basis to believe that the representation is true for the typical non-adult consumer of respondent's products. In interpreting this provision, respondents shall not represent that a consumer can achieve any result unless and until respondents can substantiate by competent tests or studies that the result can be attained by a typical non-adult who uses the product in the manner depicted in the advertisement. The original data collected for any such studies performed at the request of or with the financial assistance of respondents and a detailed description of how the test or study was performed must be available for inspection by the Federal Trade Commission for at least two years following the final use of the representation.

D. Using any testimonial which does not represent the typical experience of non-adult consumers of respondents' products.

E. Making any representation, directly or indirecly, which exaggerates or overstates the results which may

reasonably be expected to result from use of any product by a non-adult.

II

It is further ordered, That in all advertisements respondents cease and desist from:

A. Representing in any manner, directly or by implication, including through the use of testimonials, that a typical consumer who uses respondents' products will attain rapid improvement in his physical appearance, add muscles, lose fat or gain respect from his peers unless the representation is, in fact, true.

B. Representing in any manner, directly or by implication, that any product:

(1) Makes muscles appear quickly and easily, with little effort;

(2) Is more effective than isometrics or any other form of muscle building, body building or self-improvement products;

(3) Is the fastest muscle-building system in the world, unless the representation is, in fact, true.

C. Disseminating any advertisement or promotional material which contains unfair or deceptive representations or fails to disclose material facts regarding the facts regarding the advertised product(s).

D. Making any representation, directly or by implication, unless at the time the representation is made, respondents have, and rely on, substantiation sufficient to provide a reasonable basis to believe that the representation is true for the typical consumer of respondents' products. In interpreting this provision, respondents shall not represent that a consumer can achieve any result unless and until respondents can substantiate by competent tests or studies that the result can be attained by a typical consumer who uses the product in the manner depicted in the advertisement. The original data collected for any such studies performed at the request of or with the financial assistance of respondents and a detailed description of how the test or study was performed must be available for inspection by the Federal Trade Commission for at least two years following the final use of the representation.

Provided, That respondents may use testimonials which do not represent the typical experience of consumers of respondents' product(s) if (1) the testimonial itself is truthful; and (2) all conditions which contributed to the atypical results are clearly and conspicuously disclosed. Such conditions shall include, but shall not be limited to, the prior physical condition of the user, use of a special diet, use of bodybuilding products in addition to the advertised products and use of the product in a manner which differs from that depicted in the advertisement (e.g., use of the product for a longer period of time each day than advertised).

E. Representing in any manner, directly or by implication, that the physical stature of any model used in an advertisement is attainable by typical consumers who use the product unless it is, in fact, attainable.

III

It is further ordered, That respondents maintain complete business records relative to the manner and form of their compliance with this order. Respondents shall retain each such record for at least three years, and shall retain substantiation and other documentation at least two years beyond the last dissemination of any representation or testimonial which relies on the substantiation under the provisions of this order. Upon reasonable notice, respondents shall make any and all such records avalable for inspection and photocopying by authorized representatives of the Federal Trade Commission at respondents' place of business or other properly designated location.

IV

It is further ordered, That respondent Univeral Body Building, Inc., shall immediately deliver a copy of this order to each operating division and affiliated business. Respondent Universal Body Building, Inc., shall also immediately deliver a copy of this order to all personnel now or hereafter engaged in the sale or offering for sale of respondents' services or in any aspect of the preparation, creation or placing of advertising on behalf of respondents. Respondents shall secure from each such person a signed statement acknowledging receipt of the order.

V

It is further ordered, That respondents notify the Commission at least thirty days prior to any proposed change in a corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered, That Morris Mitchell promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment relating to the promotion or sale of body building, muscle building or self-improvement course, devices or products. In addition, for a period of 10 years from the date of service of this order, he shall promptly notify the Commission of each affiliation with such a new business of employment. Each such notice shall include his new business or employment. Each such notice shall include his new business address and a statement of the nature of the business or employment in which he is newly engaged as well as a description of his duties and responsibilites in connection with the business or employment. The expriration of the notice provision of this paragraph shall not affect any other ogligation arising under this order.

VI

It is further ordered, That the respondents herein shall, within sixty days after service of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Universal Bodybuilding, Inc., a corporation, and Morris Mitchell, an individual. The proposed consent order has been placed on the public record for 60 days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order. Universal Bodybuilding advertises and sells various bodybuilding and self-improvement courses and products. A significant portion of their previous advertising was directed to non-adults (persons under 17 years old) through publication in various comic books. Morris Mitchell, as president of Universal Bodybuilding, is personally in charge of much of this advertising.

The complaint which was issued by the Commission along with the proposed consent order alleges that Universal and Mitchell distributed advertisements and other promotional material which contained unfair and deceptive representations about these products. The principal allegations of the complaint focus on various ways respondents exaggerated the improvement of physique and muscle development that would be achieved and the amount of effort necessary to obtain body building results.

The complaint alleges that respondents failed to substantiate claims which they made about their products. The complaint also alleges that by promoting the unsupervised use of bodybuilding courses and products to non-adults, respondents falsely represented that they had reason to believe that such use was safe and non-harmful. Finally, the complaint alleges that respondents unfairly and deceptively used adult models and testimonials in advertising to non-adults in a manner which misrepresented muscle development which the typical non-adult could achieve by using respodents' products.

The proposed consent order separates respondents' advertising into two parts: Advertising directed to adults and advertising directed to non-adults. In advertising to non-adults, respondents are prohibited from making any claim which promotes the unsupervised use of bodybuilding courses or products unless they have reason to believe that such use will not be harmful to non-adults. Respondents are also prohibited from using adult models or testimonials, or any testimonial which does not represent the typical experience of non-adults. Finally, respondents are prohibited from using any advertisement which exaggerates or overstates the expected results of using respondents' products.

In advertising directed to adults, respondents are prohibited from making certain specific claims about the ease and effectiveness of their products in building up bodies unless they are true. In addition, respondents are prohibited from making any unfair or deceptive representations or failing to disclose material facts regarding their products. They are also prohibited from making any unsubstantiated claims in advertising or other promotional material. The order allows respondents to use true testimonials that do not represent the typical experience of users of respondents' products in advertising directed to adults if all conditions which contributed to the atypical results are clearly and conspicuously disclosed.

We believe that this order will effectively eliminate any deception or other possible injury which might have resulted from respondents' previous advertising. There is reason to believe that the unsupervised use by non-adults of certain types of products or exercises might be physically harmful. For this reason the order requires respondents to substantiate the safety of any bodybuilding courses or products they promote to non-adults. In addition, we believe that consumers, especially non-adults, are especially susceptible to exaggeration and misrepresentation of the likely effects of this type of product. By requiring that respondents use only advertising techniques which promise results which are attainable by the average member of the audience, we hope that this sort of misrepresentation can be avoided. At the same time, the Commission recognizes that such a restriction will not always be the most appropriate remedy for this type of misrepresentation. In many cases it is entirely possible that affirmative disclosure of the unusual circumstances necessary to achieve the promised results also could serve to cure the misrepresentation. We do not believe that compliance with this order will impose a great burden on these respondents or on other sellers and advertisers of bodybuilding courses or products. The order places no affirmative obligation on respondents which did not already exist for all advertisers under established Commission precedent.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms.

James A. Tobin,
Acting Secretary.

Dissenting Statement of Commissioner David A. Clanton

While I support the other provisions of the order, I am opposed to Paragraph I.B., which would prohibit the use of adult models in advertisements directed primarily to non-adults. It is difficult to assume that children reading such ads would be deceived into thinking that Universal Bodybuilding's program would transform them into replicas of the pictured models (who plainly appear to be adults, and not adolescents). While it might be argued that the use of heavily-muscled adult models prompts children to overexert themselves, I think that other provisions in the order, such as Paragraph I.A., are sufficient to assure that the advertisements do not encourage such results.

Dissenting Statement of Commissioner Robert Pitofsky

Universal Body Building sells body building devices and body building and self improvement courses. Among its products are weight lifting supporting belts and several books and pamphlets on body building. In the past, it advertised these products in comic books as well as other publications.

Some of its advertising claims appear to be highly unlikely—for example, claims that by using its body building method, "muscles will appear * * * almost like magic." Staff and the company have negotiated a cease and desist order covering false claims. Unfortunately, the order contains additional provisions which are entirely unsupportable.

Two order provisions seem to me particularly unfounded. Staff alleges that it is deceptive advertising to use adult models in physical self improvement ads in comic books because it will lead young readers to think they can achieve the physical stature of the models. The order addresses that problem by directing that the company in the future not use pictures or drawings of adults or professional models to promote the sale of body building or muscle building products in publications likely to reach non-adults—i.e., people under 17. The theory apparently is that kids reading these comic book ads will be induced to believe that by following the body building program, they will soon look like the models. I just don't think kids are that dumb. At most, they may believe that the models followed weight lifting or body building programs like those described for sale, and if they follow the recommended program, they too will come to look more like the models than they do now. Muscle building ads have been using adult models as long as I can remember and I haven't noticed any serious consumer harm as a result. In any event, the staff has offered no evidence to support these unusual complaint and order provisions.

The staff's second concern relating to sale of these products and programs to non-adults has to do with the dangers of unsupervised use. The complaint alleges that Universal Body Building in its advertisements impliedly represents that it is relying on "competent scientific tests or studies" to provide a reasonable basis to believe its products can be used by non-adults "without appropriate supervision." The ads say nothing of the kind, but the theory underlying the Order is that the promotion of muscle building products or programs to kids create an implied claim of safe use. The proposed remedy is to require that such ads be run in publications designed to reach non-adults only if the company has studies to show the products "can be used without appropriate supervision * * * [and] * * * will not be harmful."

Obviously, any body building regime could be harmful if done to excess or with improper technique. The same could be said about riding a bicycle or roller-skating. The Commission has no evidence that unsupervised body building is a dangerous activity and I am simply not willing to assume that advertising these products and programs, without some sort of scientific study relating to safety, is a violation of law, when no claims about safety are made. Since a scientific study to demonstrate that unsupervised muscle building is safe under all circumstances will be impossible to develop, the real result here will be to exclude all muscle building ads from comic books and other magazines read mainly by non-adults. I don't see that as a sensible Commission goal.

I believe these two provisions should be eliminated and the Order limited to covering instances of fraud.

[FR Doc. 80-25180 Filed 8-18-80; 8:45 am]
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FEDERAL TRADE COMMISSION

16 CFR Part 406

Deceptive Advertising and Labeling of Previously Used Lubricating Oil

AGENCY: Federal Trade Commission.

ACTION: Statement of Enforcement Policy and invitation to comment.

SUMMARY: On April 15, 1980, the Association of Petroleum Re-Refiners filed a petition with the Commission concerning its Trade Regulation Rule on Deceptive Advertising and Labeling of Previously Used Lubricating Oil (Used Oil Rule). The relief sought by the petition is the repeal of the rule or, in the alternative, a modification of its requirements to permit sellers of used oil to satisfy the rule by referring to their products as "recycled" rather than "used." The Commission has tentatively concluded that the use of the term "recycled oil product" to describe lubricants that have been re-refined from used oil would satisfy the disclosure requirement of the Used Oil Rule, and has therefore issued this Enforcement Policy Statement. Public comments on the Statement are being solicited for a period of 30 days. Unless the Commission subsequently determines, in light of the public comments, to alter or revoke the Statement, it will automatically take effect 60 days from the date of this notice.

DATE: Comments will be accepted until September 18, 1980.

ADDRESSES: Comments should be sent to: Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580. They should be designated as "Comment on Used Oil Rule Enforcement Policy Statement." Copies of the petition filed by the Association of Petroleum Re-Refiners and of the Used Oil Rule can be obtained from the Public Reference Branch at the above address (202/523-3598). The record of the Used Oil Rule proceeding is available for inspection at the Public Reference Branch.

FOR FURTHER INFORMATION CONTACT: Charlie Donaldson, Attorney, Division of Energy and Product Information, Bureau of Consumer protection, Federal Trade Commission, Washington, D.C. 20580. Telephone number: 202/724-1537.

SUPPLEMENTARY INFORMATION: On August 14, 1964, The Federal Trade Commission, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. Section 41 *et seq.*, promulgated "16 CFR Part 406—Deceptive Advertising and Labeling of Previously Used Lubricating Oil" (29 FR 11650). The Commission's rule is founded on the conclusion that whether a lubricant has been made from crude oil or from used oil is material to consumers. Accordingly, the Commission's rule requires that containers of lubricant that has been made from used oil disclose the origin of the product to consumers. While the Used Oil Rule does not prescribe specific language to be employed in making this disclosure, the term in common use since promulgation of the rule has been "made from used oil."

On April 15, 1980, the Association of Petroleum Re-Refiners petitioned the Commission to repeal the Used Oil Rule, or to modify it to permit the use of the terms "this is a recycled petroleum product" or "this is a combination of virgin oil and recycled petroleum products" to satisfy the requirements of the rule. The Association believes that the phrase "used oil" conflicts with the Congressional policy favoring the recycling of used oil, by disparaging the quality of lubricants made from used oil. In their view, the terms suggested in their petition are not discriminatory and satisfy the purposes of the rule.

It is unclear whether consumers, in fact, derive a disparaging meaning from the phrase "used oil." As noted above, however, the Used Oil Rule does not specifically require the use of this term, so long as the used origin of such a lubricant is adequately conveyed to consumers. Thus, the Commission believes that it is unnecessary to consider repeal or modification of its rule, if the terms suggested by the Association adequately convey this message to consumers.

While empirical evidence is lacking as to perception of the word "recycled", the Commission is of the view that the term "recycled oil product" would convey two things to consumers: (1) that the product has been made from previously used oil; and (2) that the processing of the used oil has made it suitable once again for ordinary consumer use. As a result, the Commission has tentatively concluded that this term is an acceptable phrase for making the disclosure required by the Used Oil Rule, for those lubricants which have been re-refined from used oil. This latter limitation is consistent with the Used Oil Rule, which draws a distinction between lubricants that are made from used oil which has been subjected to a re-refining process and those made from used oil which has not been subjected to such a process. The former have been subjected to a process that removes virtually all contaminants, while the latter have not and are therefore inappropriate for ordinary consumer use. Since the APR's petition is concerned only with re-refined oil, our interpretation permitting use of "recycled oil product" applies only to lubricants whose used oil components have been subjected to a complete re-refining process.

Another limitation is that the Commission expressly endorses only the phrase "recycled oil product" as complying with the rule. The Commission is encouraging the use of that wording to maintain a reasonably uniform disclosure scheme and to minimize any consumer confusion in this area. By this action, the Commission takes no position on whether other references to "recycled" would also be in compliance.

Although the Commission believes that this Enforcement Policy Statement is consistent with the purposes of its rule, the Commission wishes to receive and consider the comments of interested parties regarding this interpretation. The Commission is particularly interested in comments on the question whether the phrase "recycled oil product" adequately informs consumers of the used origin of re-refined lubricants.

Comments on the Statement will be accepted for a period of 30 days. Unless the Commission subsequently determines, in light of the public comments, to alter or revoke the Enforcement Policy Statement, it will automatically become effective 60 days after publication of this notice.

By direction of the Commission.

James A. Tobin,

Acting Secretary.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 51

[Docket No. R-80-709]

Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: HUD proposes to adopt a new regulation establishing Departmental standards, requirements and guidelines delineating danger zones around hazardous operations so that

HUD-assisted projects can be located at acceptable separation distances from specific hazardous operations handling materials of an explosive nature or flammable materials with a high thermal radiation output.

The purpose of the proposed regulation is to assure that a HUD assisted project is located at an acceptable separation distance (ASD) from such potentially hazardous facilities. The regulation proposes to establish explosion and thermal radiation (fire) safety standards, which will be used to determine an ASD for a given project.

DATES: Interested persons may comment by submitting written data, opinions or recommendations to the Department by October 20, 1980. Each person submitting a statement should include name, address and a reference to this policy document by the docket number indicated in the heading. All statements should be accompanied by reasons and substantiating data. All statements will be considered before final action is taken on the proposed rule.

ADDRESSES: Statements should be submitted to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Copies of all correspondence received will be available for examination by any interested persons during usual business hours in the Office of the Rules Docket Clerk at the above address.

FOR FURTHER INFORMATION CONTACT: James L. Christopulos. Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone number 202–755–8909 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: An Advance Notice of Proposed Rulemaking (ANPR), concerning this proposed regulation, was published in the **Federal Register** on September 10, 1979, 44 FR 52695. The ANPR resulted from the discovery, during the environmental review of proposed HUD projects, that many such projects were too often being located near hazardous operations of an explosive or fire prone nature. For example, in 1975, during the environmental review process, the Department learned about the proposed construction of 1,250 units of public housing which were to be located within 120 feet of a public utility facility containing forty 60,000 gallon liquid propane storage tanks. An engineering analysis determined that an explosion of just one of the tanks would emit a force capable of destroying 60 percent of the project.

The Department's concern with proposals to locate HUD-assisted projects in the vicinity of operations which include large quantities of explosive or flammable materials dates from that time. During the past four year period, Departmental staff and local officials have been using interim guidelines contained in HUD guidebook PD&R–161 (December 1975) entitled "Safety Considerations in Siting Housing Projects", to identify potentially hazardous operations and to determine acceptable separation distances for Community Development Block Grant (CDBG) projects and HUD-assisted housing in the vicinity of such operations. The guidebook is being revised concurrently with the development of this rule. It compiles formulae, nomographs, tables and other data which can be used to identify potential hazards and to determine acceptable separation distances from such hazards. The one substantive change between the original and the revised guidebook is that the standard for the safety of people in areas exposed to thermal radiation has been revised in accordance with the latest findings of current research. A draft of this guidebook is available for inspection in the Environmental Planning Division, Room 7266, at the above address.

Specific hazards considered in the proposed regulation are those of explosion and fire. The proposed regulation applies to any stationary or site specific operation or activity involved in handling quantities of explosive or flammable material(s). Operations covered by the regulation include the manufacture, storage, processing and transfer of certain chemicals and ordinary flammable fuels, e.g., kerosene, gasoline and naptha; liquid petroleum gases (LPG), e.g., liquid propane and liquid butane; and liquefied natural gas (LNG).

The Appendix, included as part of the proposed regulation, contains formulae taken from the guidebook to serve as an example for applying the standards.

This proposed rule appeared as Item CPD–32–78 in the January 4, 1980 Agenda of Significant Rules published in accordance with Executive Order 12044.

The Department has determined that the proposed regulation may significantly affect the quality of the human environment. Therefore, a Draft Environmental Impact Statement has been prepared for agency and public comment in accordance with the National Environmental Policy Act of 1969 (U.S.C. 4321), Council on Environmental Quality Regulations (40 CFR Part, 1500–1508) and HUD's Regulations (24 CFR Part 50).

Accordingly, the Department proposes to amend 24 CFR Part 51 by adding a new Subpart C to read as follows:

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

Sec.

51.200 Purpose.
51.201 Definitions.
51.202 Policy.
51.203 Safety Standards.
51.204 Responsibilities.
51.205 Exceptions.
51.206 Mitigating Measures.
51.207 Reservation of Administrative and legal Rights.

APPENDIX:

1. Background Information Concerning the Standards
2. Examples

Authority: Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535 (d)); and 42 U.S.C. 1441.

Subpart C—Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature

§ 51.200 Purpose

It is the purpose of this regulation to:

(a) Alert those responsible for the siting of HUD-assisted projects to the inherent potential dangers when such projects are located in the vicinity of hazardous operations of an explosion and/or fire prone nature;

(b) Provide guidance for identifying those harardous operations which are the most prevalent;

(c) Provide the technical guidance required to evaluate the degree of danger anticipated from explosion and thermal radiation (fire);

(d) Establish safety standards which can be used as a basis for calculating acceptable separation distances from potential fire and/or explosion hazards thereby assuring the location of HUD-assisted projects at acceptable distances from such hazardous operations; and

(e) Provide technical guidance required to determine acceptable separation distances from such hazards.

§ 51.201 Definitions.

Acceptable Separation Distance—(ASD) from a particular hazard is the distance beyond which it is not likely to cause more than minimal injury to people or damage to property. The ASD is also the distance beyond which HUD assisted projects may generally be constructed.

Blast Overpressure—that physical phenomenon that is characteristically

generated by an explosion. The very rapid combustion or decomposition of an explosive reaction which produces very large volumes of super heated gases which exert pressure on the surrounding medium in excess of normal atmospheric pressure.

BTU—British Thermal Unit, a quantity of heat required to raise one pound of water one degree fahrenheit; a unit of heat measurement.

Danger Zone—That land area between the hazard and a perimeter defined by the ASD is the danger zone. For example, if the ASD is determined to be 200 feet, all land area beyond 200 feet is considered acceptable for construction of a HUD project; and that land located in the area between the hazard and the 200 feet perimeter is the "Danger Zone", and generally not acceptable for construction of a HUD assisted project.

Department—The Department of Housing and Urban Development

Secretary—The Secretary of Housing and Urban Development

HUD—The Department of Housing and Urban Development

HUD Assisted Project—The development, construction, rehabilitation, modernization or conversion with HUD subsidy, grant assistance, loan, loan guarantee, or mortgage insurance, of any project which is intended for human occupancy or use, i.e., for residential, institutional, recreational or other such use.

psi—Pounds per square inch, an abbreviation for the unit commonly used to measure compression pressure or blast overpressure.

Thermal Radiation Flux Level—The emission and propagation of heat energy through space or a material medium in the form of waves in a quantity proportional to the surface integral of the normal force field intensity over a given area. In simple terms, the amount of heat emitted from a fire. Normally expressed in BTU per square foot per hour (BTU/ft.^{2} hr.)

§ 51.202 Policy.

(a) It is HUD's policy that projects receiving HUD assistance will be located in a safe and healthful environment. Therefore, any HUD-assisted project which is intended for human occupancy or use, i.e., for employment, residential, institutional, recreational or other functions, whether part-time or full-time, shall be situated at an Acceptable Separation Distance (ASD) from a potential hazard of an explosion or fire prone nature. The Department will withhold assistance for any proposed project unless the safety considerations and standards of this Subpart are satisfied. Mitigating measures may be applied wherever feasible in order to minimize any potential hazard to the occupants or users of a proposed HUD assisted project in accordance with Section 51.206 of this regulation. An exception to this rule would be HUD projects of an industrial or commercial nature, which may have fire or explosive potential, e.g., gasohol plants, industrial parks, etc. However, the safety standards will apply in determining the proximity of projects of this nature to other land areas such as residential.

(b) The fundamental intent of this regulation is to safeguard community inhabitants by directing the growth patterns and development of densely inhabited areas away from such danger zones of flammable and explosive chemicals and fuels. Before such assistance is approved, HUD will evaluate the area zoning classification to establish whether a hazardous operation could at some time in the future be installed in close proximity to a proposed project to be constructed or rehabilitated with HUD assistance.

(c) The provisions of this regulation apply to all HUD assisted projects, with the exception noted in § 51.202(a). This includes any type of HUD assistance, i.e., grants, loans, mortgage guarantees, etc.

(1) Applicants for assistance under Title I, Housing and Community Development Act of 1974, will implement the policy, safety standards and criteria set forth in this Subpart during the environmental review process and must provide for appropriate mitigating measures such as barriers when sensitive land development is proposed for or will attract development to locations exposed to hazardous materials operations.

(2) This policy and its intended purposes of safety with regard to hazardous material operations shall be applied to all new construction, except as indicated in Paragraph 51.202(a), and to rehabilitation or modernization when such work wold substantially increase the number of people exposed to the hazards by increasing residential densities or through the conversion of a building or facility from non-residential to residential use.

(d) Grantees or sponsors of projects which have received HUD approval must notify the Department if they learn of any planned hazardous operation, covered by this regulation, which is to be located in the vicinity of their project. HUD will use this information to advise the appropriate entity of local government on hazard implications and remedial measures.

§ 51.203 Safety Standards.

There are two types of potential hazards covered by this regulation: (a) Fire (thermal radiation), and (b) explosion. Therefore, the safety standards to be established are for these two hazards. Based upon the background information contained in the Appendix of the regulation it has been determined that the fire safety standards will be 10,000 BTU/ft^{2}hr for buildings, and 450 BTU/ft^{2}hr for people in unprotected (outdoor) areas, such as playgrounds, parks, yards and open spaces within the property lines of the proposed development; and the standard for explosion will be 0.5 psi overpressure. These standards will be used to determine the Acceptable Separation Distance (ASD) from a potential explosive or fire prone hazard as illustrated by the examples in the Appendix. Any distance beyond the ASD will be considered acceptable for construction. That distance between the hazard source and the ASD delineates the "Danger Zone" and is unacceptable for the location of HUD-assisted projects, unless mitigating measures are taken. See § 51.206, Mitigating Measures. The Acceptable Separation Distances for building construction, which are computed for fire and for explosion will always differ. For some materials the ASD for fire will be the greatest, while for others the explosion ASD will predominate. In any event, the hazard requiring the greatest separation distance will prevail in determining the siting of buildings in HUD assisted projects.

Note.—Computation of an ASD is predicated on level topography and no intervening object(s) between a potential hazard and a proposed project. A permanent intervening structure or shielding topography can constitute a mitigating measure.

The Annex contains detailed information concerning the Safety Standards for determining acceptable separation distances (ASD's) for construction of buildings and location of outdoor recreational facilities.

§ 51.204 Responsibilities.

(a) Assistant Secretaries' duties:

(1) Assistant Secretaries shall implement the Department Policy regarding the required siting considerations of HUD assisted projects through guidance documents, and administrative forms and procedures for progams under their jurisdication.

(2) The Assistance Secretaries shall evaluate the effectiveness of the Departmental Policy and compliance

with its provisions. All significant issues and problems or suggested revisions or additions to the policy should be directed to the Assistant Secretary for Community Planning and Development.

(b) Regional Administrators, Area Office Managers and other Office Supervisors duties:

(1) *General Policy Implementation.* Regional Administrators, Area Office Managers, Insuring Office Supervisors and Service Office Supervisors shall assure that this policy is implemented.

(2) *Notice to Applicants.* As soon as practicable, these supervisors indicated in § 51.204(b)(1) above shall:

(i) Assure all present and prospective applicants are apprised of the Department's hazards policy and its provisions so that current and future site selections will be in accordance with HUD policy standards and guidelines.

(ii) Determine the suitability of proposed residential development with regard to potential danger zones and promptly notify applicants of any adverse or questionable conditions and state the factors leading to a HUD decision of adverse or questionable conditions.

(iii) Review mitigating measures submitted by the applicant to offset a potential hazard, and notify applicant of their acceptability.

§ 51.205 Exceptions.

There will be no exceptions, beyond that noted in § 51.202(a). Any project coming under the purview of this policy will comply with the prescribed Acceptable Separation Distance (ASD) as related to a specific hazard unless appropriate mitigating measures (see § 51.206) are incorporated into the project.

§ 51.206 Mitigating Measures.

There are two very effective measures which can be employed to minimize or off-set the effect of a potential explosion or thermal radiation (fire) hazard. The most positive and effective mitigating measure, which can be taken when siting a HUD project in the immediate vicinity of a fire or explosion prone operation, is the establishment of and adherence to an acceptable separation distance (ASD). This, as a matter of policy, should be the first recourse whenever HUD projects are proposed near hazardous operations of the type previously described. Another very effective measure is the construction of a barrier between the potential hazard and the proposed project site. This can dramatically reduce the danger zone and increase the availability of usable land area. Use of a barrier is recommended wherever the ASD cannot be achieved and it is feasible economically and acceptable environmentally. And as previously stated in § 51.203 above a permanent intervening structure or shielding topography can also constitute a mitigating measure.

§ 51. 207 Reservation of Administrative and Legal Rights.

Publication of these standards does not constitute a waiver of any right (a) of HUD to disapprove a project proposal if the siting is too close to a potential hazard not covered by this subpart, and (b) of HUD or any person or other entity to seek to abate or to collect damages occasioned by a nuisance, whether or not covered by the Subpart.

Appendix

The Appendix is comprised of two parts. The first part contains background information concerning the fire and explosion safety standards, and the second part illustrates the application of the standards.

1. *Background Information Concerning the Standards*

(a) *Fire.* (1) *Introduction.* Flammable products stored in above ground tanks represent a definite potential threat to human life and structures in the event of fire. Even though it may not impinge directly on neighboring structures, the resulting flame emits thermal radiation which is absorbed by the surroundings. If another tank is in the same area and is exposed to high levels of thermal radiation or to the flame itself, its walls may fail and its contents may ignite and burn. Similarly, combustible structures such as wooden houses and trees, may be ignited by the thermal radiation being emitted. The radiation can cause severe burn injuries and even death to exposed persons at some distance away from the site of the fire.

(2) *Criteria for Acceptable Separation Distance.* (ASD) Wooden buildings, window drapes and trees generally ignite spontaneously when exposed for a relatively long period of time (15–20 minutes) to thermal radiation flux levels of approximately 10,000 BTU/hr. sq. ft., and structural steel loses its strength when its temperature reaches approximately 650 F after about 15 minutes of continuous exposure at that intensity. Since the reasonable response time for fire fighting units in urbanized areas is approximately five to ten minutes, 10,000 BTU/hr. sq. ft. is considered an acceptable level of thermal radiation for buildings, since it will take 15 to 20 minutes for a building to ignite at that degree of thermal intensity. Therefore, this will be the standard for calculating the acceptable separation distance for a proposed HUD building project from the site of a potential thermal radiation (fire) hazard. People who are in an outdoor area and are exposed to a thermal radiation level of approximately 450 BTU/ft²hr will suffer pain after about two minutes and receive a burn comparable to a second degree burn. Longer exposure causes blistering. Since it is assumed that people will take refuge behind walls or run away from the fire well within the two-minute time period, and before skin blistering occurs, 450 BTU/hr. sq. ft. thermal radiation is established as the standard for determining the ASD for people in unsheltered locations. Therefore, exposed outdoor recreation areas such as playgrounds, and parks must be placed at such a distance from a potential fire hazard so that the radiation flux does not exceed 450 BTU/hr. sq. ft. This includes open space ancillary to residential structures, such as yard areas and vehicle parking areas, unless such space is protected (shielded) from the potential source of thermal radiation by the structure being served or by other means to such a degree that the thermal radiation would be reduced to an acceptable level.

(3) *Acceptable Separation Distance From a Potential Fire Hazard.* This is the actual setback required for the safety of occupied buildings and their inhabitants and people in open spaces (exposed areas) from a potential fire hazard, if there are no mitigating measures. The specific distance required for safety from such a hazard depends upon the nature and the volume of the substance. The Technical Guidebook, which supplements this regulation, contains the technical guidance required to compute Acceptable Separation Distances (ASD) for those flammable substances most often encountered. Section 2 of the appendix has an example for computing ASD from a potential fire. Liquid propane is the substance used in the example, since it is one of the flammable products most often encountered.

(b) *Explosion.* (1) *TNT Equivalent:* The range of sensitivity of the explosion tolerance of a material and the magnitude of the violent sudden release of energy can vary widely between one material and another. Therefore, for the sake of simplicity, the blast effect of an explosive material is compared to TNT, whose blast energies are well known. This method of comparison is known as "TNT Equivalent." The term "TNT Equivalent" refers to the amount of material (other than TNT) it would take to have the same blast effect as one

pound of TNT. Appropriate tables, nomographs and other technical guidance are provided in the Technical Guidebook to assist in determining a TNT equivalent.

(2) *Acceptable Separation Distance.* The Acceptable Separation Distance (ASD) for people and structures from materials prone to explosion is dependent upon the resultant blast measured in pounds per square inch (PSI) overpressure. The military services have determined that 0.5 PSI is the acceptable level of blast overpressure for both buildings and occupants, because a frame structure can normally withstand that level of external exertion with no serious structural damage and it is unlikely that human beings inside the building would normally suffer any serious injury. Using this standard and after determining the TNT equivalent for the material concerned, the ASD can be mathematically computed by determining the distance at which the blast overpressure will be 0.5 PSI. That distance is the ASD or the maximum radius of the danger zone. A special table and a nomograph are included in the Technical Guidebook from which the ASD can be extrapolated, thereby eliminating that portion of the calculation. An example for determining TNT equivalent and ASD are included below.

(c) *Hazard evaluation.* The Acceptable Separation Distances for buildings, which are computed for fire and explosion, delineate separate identifiable danger zones for each potential accident source. For some materials the fire danger zone will have the greatest radius, and cover the largest area, while for others the explosion danger zone will be the greatest. In any event the hazard requiring the greatest separation distance will prevail in determining the location of buildings for HUD-assisted projects.

The standards proposed for the protection of public health and welfare are given in the following table.

	Thermal radiation	Blast overpressure
Amount of acceptable exposure allowed for building structures.	10,000BTU/ft²-hr[a]	0.5 psi
Amount of acceptable exposure allowed for people in open areas.	450BTU/ft²-hr[b]	0.5 psi

Note a.—Duration of exposure should not exceed 20 minutes.

Note b.—Duration of exposure should not exceed 2 minutes.

2. *Examples*

The following examples are given as guides so that anyone reviewing this policy can understand how the procedures are used in determining acceptable separation distances. Liquid propane has been selected to be used in the examples since it is both an explosion and a fire hazard.

In this hypothetical case, the hazard is 30,000 gallons of liquid propane stored in one tank at a storage pressure of 200 PSI. The objective is to determine the ASD (a) in event of explosion and (b) in event of fire. There is no dike around the tank in this example.

(a) *Calculation of ASD in Event of Explosion:*

1. *Procedure for Calculating ASD.* (i) Identify the material, the storage or operating pressure, the quantity in pounds, the specific gravity, and the molecular weight. If quantity is given in gallons, convert to cu. ft. by dividing by 7.48 gal./cu. ft. Multiply specific gravity by 62.4 to obtain density in lb./cu. ft. Multiply density by number of cubic feet in the tank to obtain total content in pounds.

(ii) From molecular weight of contents and operating pressure determine TNT_{eq}. This can be extrapolated from a nomograph in the Technical Guidebook for liquid propane. Multiply TNT_{eq} by mass of tank contents in pounds to obtain totlal TNT equivalent.

(iii) If the total TNT equivalent is less than 30,000 lbs. a nomograph is included in the Technical Guidebook from which the acceptable separation distance (ASD) can be obtained.

(iv) If the total TNT equivalent is more than 30,000 lbs. the ASD can be obtained from a table in the Technical Guidebook.

(2) *Sample Calculation* (for explosion):

Chemical or fuel: Liquid Propane.
Amount of Material: 30,000 gallons.
Specific Gravity: 0.59.
Molecular Weight: 44 (commercial propane).
Storage Pressure: 200 PSI.
TNT_{eq} for Propane = .044 lb_{TNT}/ lb. propane.
Density of propane = 0.59 x 62.4 = 36.8 lb./cu. ft.
Mass of propane in tank = 30,000 gal. x 1 cu. ft./7.48 gal. x 36.8 lb./cu. ft. = 147,590 lb.
Total TNT Equivalent = 0.044 x 147,590 = 6494 lb TNT.

Since the total TNT_{eq} is less than 30,000 lb. the nomograph in the technical document is consulted and it is found that the ASD is *660 feet.*

(b) *Calculation of ASD in Event of Fire:*

(1) *Procedure for Calculating ASD.* (i) Determine the expected spill fire diameter, D:

(A) Storage tank in circular dike: Dike diameter = D.
(B) Storage tank in rectangular dike: D = 4 (area of dike) ÷ perimeter of dike.
(C) For an undiked tank the spill diameter (D) is

$$D = 2\sqrt{\text{volume (gallons)}}$$

(ii) Using the spill fire diameter proceed to the appropriate nomograph in the Technical Guidebook and read off the acceptable separation distance (ASD).

(2) *Sample Calculation* (for fire):

Chemical or Fuel: Liquid Propane.
Amount of Material: 30,000 gallons.
Type of Dike: Undiked.

$$D = 2\sqrt{\text{volume (gallons)}}$$

$$D = 2\sqrt{30{,}000} = 346 \text{ ft.}$$

Using the appropriate nomograph for propane in the Technical Guidebook it is found that the acceptable separation distance is 880 feet for playgrounds or open space associated with residential buildings and 300 feet for buildings.

Since the 660 feet ASD for explosion is greater than the 300 feet for fire it will prevail. Therefore, the Acceptable Separation Distance for inhabited buildings from this particular 30,000 gal. liquid propane tank is *660* feet; and playgrounds, and other recreational facilities or open space for human use must be located at least *880* feet from the tank.

Issued at Washington, D.C., August 12, 1980.

Ronald P. Laurent,

Acting Secretary, Department of Housing and Urban Development.

[FR Doc. 80-25239 Filed 8-18-80; 8:45 am]

BILLING CODE 4210-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1577-2]

Approval and Promulgation of Implementation Plans, Minnesota; Receipt

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Receipt and Availability.

SUMMARY: This notice is to announce receipt and availability for public review of proposed revisions to the Sulfur dioxide (SO_2) portion of the Minnesota State Implementation Plan (SIP) for the Twin Cities and Rochester nonattainment areas.

Under the requirements of Part D of the Clean Air Act, the State of Minnesota on May 7, 1980, June 17, 1980,

July 14, 1980 and August 4, 1980 submitted to the U.S. Environmental Protection Agency (USEPA) the above mentioned proposed revisions to its SIP. These proposed revisions are designed to implement new measues for decreasing the ambient concentrations of SO_2 in the Twin Cities and Rochester nonattainment areas. A Notice of Proposed Rulemaking describing the proposed revisions and USEPA's intended rulemaking action will be published in a subsequent **Federal Register**.

DATES: See Supplementary Information.

ADDRESSES: The submittal may be examined during normal business hours at the following USEPA offices:

Public Information Reference Unit, Library Systems Branch, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

In addition the revisions may be examined at the office of the: Minnesota Pollution Control Agency, 1935 W. County Road B–2, Roseville, Minnesota 55113.

WRITTEN COMMENTS SHOULD BE SENT TO: Mr. Gary Gulezian, Chief Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clarizio, Regulatory Analysis Section, U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6052.

SUPPLEMENTARY INFORMATION: USEPA is currently reviewing the above mentioned proposed revisions to the Minnesota SIP. At the completion of this review a notice will be published in the **Federal Register** proposing rulemaking action on these proposed revisions. All interested persons are advised that the proposed revisions are available for review at the locations listed above. The proposed rulemaking notice referred to above will announce the last day for public comment. This public comment period will extend for 30 days from the date of publication in the **Federal Register** of USEPA's proposed rulemaking action.

Dated: August 8, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80–25102 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 52

[FRL 1576–5]

Commonwealth of Virginia; Proposed Deadlines for Correcting Deficiencies in Virginia's SIP Revision for Nonattainment Areas; Proposed Change in Northern Virginia Urbanized Area Boundary

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Elsewhere in today's **Federal Register**, EPA is conditionally approving the Virginia State Implementation Plan (SIP) in instances where the plan is deficient and the State has assured EPA that it will submit corrections. Conditional approvals mean that restrictions under Sections 110, 176 and 316 of the Clean Air Act will not apply unless Virginia fails to submit the necessary corrections or EPA fails to approve them. This notice solicits comments on the adequacy of the deadlines established for conditionally approved items. Furthermore, this notice proposes, and solicits comments on, a change in the boundary of the urbanized area in Northern Virginia to exclude Loudon County.

DATE: Comments must be submitted on or before September 18, 1980.

ADDRESSES: Copies of the materials submitted by the Commonwealth of Virginia are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106. Attn.: Patricia Sheridan.

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

All comments on the proposed revision submitted on or before September 18, 1980, will be considered and should be addressed to: Howard Heim, Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106. Attn: AH300aVA

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Garrison (3AH13), Air Programs Branch, U.S. Environmental Protection Agency Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597–2745.

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register**, EPA has published a notice approving, with certain conditions, Virginia's State Implementation Plan (SIP) revision for attaining the national ambient air quality standards (NAAQS) for ozone and carbon monoxide. The conditions and deadlines EPA has established for correcting the deficiencies in this revision, are:

1. *Margin for Growth.*—A system for tracking emissions growth must be submitted by September 30, 1980.

2. *RACT as expeditiously as practicable.*—The RACT deficiencies must be remedied according to the following schedule:

Not later than September 30, 1980: Adequate justification or draft revised regulations must be submitted.

Not later than December 30, 1980: Final regulations, where applicable, must be submitted.

The following regulations contain RACT deficiencies that must be remedied:

a. The emission limitation on automobile and light duty truck coating in § 4.55(e)(2).

b. The exemption from Stage I vapor controls for gasoline service stations with a throughput of less than 20,000 gallons per month, contained in § 4.56(d)(3)(ii) (for Richmond only).

c. The general exemption for sources of VOC emissions contained in § 4.54(a)(4)(i), as it applies to § 4.54(c) dealing with Solvent Metal Cleaning (for Richmond and Northern Virginia only).

d. The regulations covering cutback asphalt paving in § 4.57(b) must be remedied to correct two deficiencies:

(i) The maximum allowable solvent content of emulsified asphalt of 15 percent is not RACT.

(ii) Allowing the use of cutback asphalt as a tack cost is not allowed under RACT.

3. *Inspection and Maintenance (I/M).*—Adequate I/M legislation must be submitted by July 1, 1980. The legislation must include, as a minimum, a schedule for implementation of the I/M program and a clear commitment to implement and enforce the program and to reduce emissions by 25 percent by 1987. Specifically, the SIP should include a commitment to require retesting of vehicles initially failing the annual emissions test, along with a commitment to prohibit registration or provide some equally effective mechanism to prevent vehicles not complying with applicable emission requirements from operating on public roads.

4. *Enforceability:*

a. Acceptable test methods and procedures for determining compliance with §§ 4.54, 4.55, 4.56, and 4.57 must be submitted by September 30, 1980.

b. An acceptable definition of "reasonable further progress" must be submitted by September 30, 1980.

5. *Conformity Requirement.*— Commitments must be adopted by each lead agency and Metropolitan Planning Organization (MPO) in the Northern Virginia, Richmond, Peninsula, and Southeastern Virginia areas that no project, program, or plan will be approved that does not conform with the SIP. These commitments must be adopted by the designated lead agencies and MPOs, be endorsed by the State, and be submitted to EPA by September 30, 1980.

6. *Carbon Monoxide:*

A "hot spot" analysis for carbon monoxide in the carbon monoxide nonattainment portions of the National Capital Interstate AQCR, as well as a line of reasonable further progress for carbon monoxide, must be submitted by September 30, 1980.

The conditions apply to all ozone nonattainment areas unless indicated otherwise. "Richmond" refers to the Richmond City, Henrico County and Chesterfield County portions of the State Capital Intrastate AQCR. "Northern Virginia" refers to the Virginia portions of the National Capital Interstate AQCR.

The Commonwealth of Virginia has requested that the boundary of the urbanized area in Northern Virginia be modified to exclude Loudoun County, since this is primarily a rural area which accounts for only 5.0 percent of the light duty vehicle registrations in the Northern Virginia Region. The effect of this modification, if approved, would be to exclude Loudoun County from the requirement to implement I/M. It would not change Loudoun County's designation, under Section 107 of the Clean Air Act, as nonattainment for ozone. In addition, if the modification were approved, Loudoun County would no longer be eligible to receive funds under Section 175 of the Act.

EPA invites the public to submit comments on whether the deadlines and the change in urbanized area boundaries discussed above are acceptable and should be approved as a revision of the Virginia State Implementation Plan. Comments should be submitted to the address given above.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the revision conforms to the requirements of Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of 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 have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: June 6, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25151 Filed 8-18-80; 8:45]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1576–6]

Commonwealth of Virginia; Receipt of State Implementation Plans for Virginia

AGENCY: Environmental Protection Agency.

ACTION: Notice of Availability of State Implementation Plan.

SUMMARY: On January 11, 1979, the Commonwealth of Virginia submitted a revision to its State Implementation Plan (SIP) in accordance with Part D of the Clean Air Act. The purpose of the SIP revision was to implement the measures necessary to attain the ozone and carbon monoxide air quality standards in areas of Virginia not currently attaining those standards.

After submittal of the above-mentioned plan revision, EPA revised the ozone standard to 0.12 ppm. Subsequently, Virginia submitted a revision on December 17, 1979, reflecting this change in the ozone standard.

Air quality analysis based upon the new ozone air quality standard indicated that all areas, except the Richmond Area and Northern Virginia Area, can achieve attainment by December 31, 1982. Virginia requested that an extension of the attainment date until December 31, 1987 be withdrawn for all nonattainment areas except Richmond and Northern Virginia.

As required by Section 172(b)(11)(A) of the Clean Air Act, Virginia submitted, on May 15, 1980, revisions for a motor vehicle inspection and maintenance (I/M) program. The program is to be applicable in the two nonattainment areas (Richmond and Northern Virginia) for which attainment of the ozone standard by December 31, 1982 cannot be demonstrated.

The purpose of this notice is to announce the availability of the December 17, 1979 and May 15, 1980 submittals. Interested persons are invited to inspect these SIP submittals at one of the locations listed below.

ADDRESS: The December 17, 1979 and May 15, 1980 SIP submittals are available for inspection at:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, Attn: Patricia Sheridan.

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, VA 23219. Attn: Mr. William R. Meyer.

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Eileen M. Glen (3AH11), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Telephone: (215) 597–8187.

SUPPLEMENTARY INFORMATION:

A separate area plan was developed for each nonattainment area in the submittal of December 17, 1979. The area plans include information concerning introduction, air quality data analysis, control strategy, new source review program, regulations, emission inventory, compliance schedules, inspection/maintenance, transportation measures and intergovernmental responsibilities/legal authority/consultation.

The May 15, 1980 submittal included the legislation recently enacted by the Virginia General Assembly and a proposed revision to Chapter 9, Inspection/Maintenance, of the Virginia Implementation Plan. The revision to Chapter 9 includes a schedule for the implementation of the I/M program. This submittal was made to satisfy conditions specified in the Rulemaking relative to the Virginia Part D SIP which appears elsewhere in today's Federal Register.

This Notice of Availability incorporates by reference and is published in accordance the General Preamble published by EPA on April 4, 1979 (44 FR 20372) and supplements thereto published on July 2, 1979 (44 FR 38471) and November 23, 1979 (44 FR 67182).

(42 U.S.C. 7401–7642)

Dated: July 15, 1980.

Alvin R. Morris,

Regional Administrator.

[FR Doc. 80-25150 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Parts 52 and 81

[FRL 1577-3]

Approval and Promulgation of Implementation Plan; Designation of Areas for Air Quality Planning Purposes; Ozone and Carbon Monoxide, Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking: Correction notice.

SUMMARY: On June 17, 1980, the EPA erroneously proposed to designate Crawford County instead of LaCrosse County attainment/unclassifiable for the ozone ambient air quality standard (45 FR 41018). The EPA is today correcting the error and proposing rulemaking on LaCrosse County.

DATE: Comments on the changes included in this correction notice are due September 18, 1980.

ADDRESSES: Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On June 17, 1980, the EPA proposed to redesignate under Section 107 of the Clean Air Act, Grant, Douglas, and Crawford Counties, Wisconsin to attainment/unclassifiable for the ozone standard (45 FR 41018). Crawford County was erroneously listed. Crawford County is presently designated attainment/unclassifiable (March 3, 1978, 43 FR 8961, 40 CFR 81.350). The EPA intended to propose redesignating Grant, Douglas, and LaCrosse Counties to attainment/unclassifiable because of the February 8, 1979 change in the ozone standard (44 FR 8220).

The EPA today is correcting the error by withdrawing the proposed change in Crawford County's ozone designation and by proposing to redesingate LaCrosse County, Wisconsin from "Does not meet the primary standards" for oxidants to "Cannot be classified or better than national standards" for ozone. If the EPA redesignates LaCrosse County to attainment/unclassifiable, Part D of the Clean Air Act does not require an ozone plan to be developed for the County. In the June 17, 1980 **Federal Register**, the EPA proposed to approve the Part D ozone plan for LaCrosse County. If the EPA does ot redesignate the County, the EPA is planning to approve the Part D ozone plan for LaCrosse County.

Interested persons are invited to comment on these changes to the June 17, 1980 **Federal Register** Notice and on EPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. All comments received will be available for inspection at the Region V Office, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Under Executive Order 12044 (43 FR 12661), EPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this proposed regulation pursuant to the guidance in EPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator, and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 107, 110, 172, and 301(a) of the Clean Air Act as amended)

Dated: August 11, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-25153 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 58

[FRL 1575-3]

Approval and Promulgation of State Implementation Plans; Pennsylvania, Philadelphia and Allegheny County; State and Local Air Monitoring Stations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to Pennsylvania's, Philadelphia's and Allegheny County's SIP, to meet Federal Monitoring Regulations, 40 CFR Part 58, Subpart C, Paragraph 58.20, Air Quality Surveillance plan content.

DATE: Comments due September 18, 1980.

ADDRESSES: Comments on this modification should be directed to:

Mr. Robert J. Blanco, Acting Chief, Air Programs Branch (3AH12), Air, Toxics and Hazardous Materials Division, EPA—Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, Attn.: AH500PA, AH500APA, AH500BPA.

Copies of the materials submitted by the State of Pennsylvania; the City of Philadelphia and Allegheny County and comments received on this proposal may be examined during normal business hours at:

U.S. EPA Region III, Air Programs Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, Attn.: Patricia Sheridan.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Paparella, U.S. EPA—Region III, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, Phone: 215-597-8184.

SUPPLEMENTARY INFORMATION: In a May 10, 1979, **Federal Register** Notice, (44 FR 27571) EPA required that by January 1, 1980, the States shall adopt a Revision to their SIP which meets the requirements of 40 CFR Part 58, subpart C, paragraph 58.20. On January 25, 1980, December 21, 1979 and June 18, 1979, Pennsylvania, Philadelphia and Allegheny County, respectively, submitted revisions to their SIPs concerning compliance with these Federal Monitoring Regulations. EPA has reviewed the revisions and finds that they meet the requirements of Part 58.

The public is invited to submit to the address stated above comments on whether the above listed modifications should be approved as revisions to the Pennsylvania and Philadelphia and Allegheny County SIPs.

The Administrator's decision to approve or disapprove this proposed SIP revision will be further based on a final determination as to 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 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 lables 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.

(42 U.S.C. 7401-7642)

Dated: July 24, 1980.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 80-25157 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 81

[FRL 1577-1]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations—California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to revise the attainment status designation of part of Kern County, California, for sulfur dioxide (SO_2). The San Joaquin Valley Air Basin (SJVAB) portion of Kern County is now designated nonattainment (primary) for SO_2. The EPA now proposes to redesignate part of that area to attainment for SO_2 and to leave the remainder with its present designation of nonattainment (primary).

The EPA invites public comments on the proposed redesignation. If a portion of Kern County is redesignated attainment, the requirements of Title I, Part D, of the Clean Air Act (CAA), as amended, would no longer apply to the area redesignated for SO_2.

DATE: Comments will be considered if received on or before September 18, 1980.

ADDRESSES: Comments should be directed to:

David Howekamp, Acting Chief, Air Technical Branch (A-4), Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, California 94105.

Information pertinent to the proposed redesignation is available for public inspection during normal business hours at the EPA Region IX Office at the address above, and at the following locations:

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street, SW., Washington, D.C. 20460.

California Air Resources Board, 1102 "Q" Street, Sacramento, Calif. 95812.

Kern County APCD, 1700 Flower Street, Bakersfield, Calif. 93305.

FOR FURTHER INFORMATION CONTACT:

Wallace Woo, Acting Chief, Technical Analysis Section (A-4-3), Air Technical Branch, Air and Hazardous Materials Division, EPA Region IX, 215 Fremont Street, San Francisco, Calif. 94105, Attn.: Morris Goldberg, (415) 556-8065.

SUPPLEMENTARY INFORMATION:

State-Proposed Redesignation

Under section 107(d)(5) of the CAA, as amended, a state may revise its designations of attainment status and submit them to the EPA for approval.

The California Air Resources Board (ARB), in a letter to the EPA dated September 24, 1979, requested, in part, that all of the SJVAB portion of Kern County, with the exception of the "Oildale Area" northeast of Bakersfield, be redesignated to attainment for SO_2. Documentation to support the change of designation was attached. Other redesignations requested in the September 24 letter have been acted upon in a separate **Federal Register** notice.

The EPA, in a January 9, 1980 letter, notified the ARB that the recommended redesignation of the Midway-Sunset Oil Field portion of Kern County from nonattainment to attainment would be inappropriate. EPA policy requires a nonattainment designation for SO_2 for all areas with measured and/or modeled SO_2 violations resulting from existing sources. In accordance with section 107(d)(2) of the CAA, as amended, the EPA requested that the ARB provide additional information regarding modeled violations in the Midway-Sunset Oil Field in southwestern Kern County, as discussed below.

The ARB, in a February 7, 1980 letter to the EPA, reaffirmed "its recommendation for redesignation of the Midway-Sunset Oilfield area of Kern County as an attainment area," and stated, "predicted violations are based on the expected emissions from existing *and* projected sources in the area, under worst-case meteorological conditions."

Violations of the SO_2 Stantards

On November 15, 1978, Science Applications, Inc. (SAI) published Report No. SAI-78-963-LJ, entitled *Air Quality Impact of Proposed Oil-Fired Equipment in the Western Kern County Oil Fields as of July 1978,* Volumes I-III, prepared for Westside Oil Field Operators. That report, using the Climatological Dispersion Model (CDM), concluded that within the Midway-Sunset Oil Field area:

1. Existing sources are causing violations of the annual average SO_2 standard, and

2. Existing plus future sources will cause violations of the same standard.

The SAI Report also concludes, using the Texas Episodal Model (TEM), that:

1. Existing sources are causing violations of the 24-hour average SO_2 standard, and

2. Existing plus future sources will cause violations of the same standard.

On December 25, 1978, the Getty Oil Company measured a 24-hour average SO_2 concentration of 383 $\mu g/m^3$ at their Producers-Oildale monitor, and a 24-hour average of 430 $\mu g/m^3$ SO_2 at their Kern Front monitor. Both monitors are in the "Oildale Area".

For calendar year 1978, the ARB monitor at the Oildale-Kern County Fire Department recorded an annual average SO_2 concentration of 87 $\mu g/m^3$, as compared to the primary standard of 80 $\mu g/m^3$.

In January 1979, SRI International published a report entitled *Modeling of Stationary Air Pollution Sources in the Central and Western Kern County Oil Fields,* Volumes I and II, prepared for EPA Region IX. That report showed, using CDM, that existing sources, as well as existing plus future sources, are predicted to cause violations of the annual average SO_2 standard in the area northeast of Bakersfield ("Oildale Area").

Criteria for Attainment Status Designations for SO_2

1. One measured air quality violation within recent years is sufficient basis for a nonattainment designation, while two years of violation-free data at all monitoring sites, including sites located at places of expected maximum concentration, is necessary for a redesignation to attainment. Only if it is shown that recent air quality improvements are the result of recent enforceable emission reductions, may one year of violation-free data be sufficient for a redesignation to attainment.

2. One modeled air quality violation due to existing sources is sufficient basis for a nonattainment designation. Modeling is not required, but is the preferred method of demonstrating attainment when there is reason to believe that the monitoring sites which had violations previously are not located at places of expected maximum concentration due to existing sources.

3. Nonattainment areas may be as small as possible as long as all areas in which violations are expected are included. It is impossible to accurately define the area of a violation. Sufficient flexibility exists to allow an additional area, around the area with measured and/or expected violations, to be designated nonattainment. The additional area provides new sources the potential for additional sources of emission offsets and, as a buffer, prevents the construction of a source in the area from adversely impacting the area which has the measured or modeled air quality violations.

Proposed Boundaries of "Oildale Area"

In its September 24, 1979 letter, the ARB recommended that the nonattainment (primary) designation for the "Oildale Area" be retained. In an attachment to that letter, the "Oildale Area" is described as follows:

"Oildale Nonattainment Area for SO_2—An area circumscribed by the following lines: on the south from Kern River State Park at the Universal transmercator (UTM) line of 326,000 east; southwest to the intersection with State Highway 204 and northwest along Highway 204 to where it merges with State Highway 99, northwest along Highway 99 to the intersection with the line defined by 310,000 easting UTM coordinate; north to the intersection of the center line of Poso Creek, then east by southeast along Poso Creek until it intercepts the line running from the Kern River center line to the Poso Creek center line at the UTM coordinate 326,000 easting. (Refer to attached map for approximate boundaries.)"

Judging from that description and from the "attached map," it appears that the intended southeast boundary of the "Oildale Area" is the Kern River. Such a boundary seems inappropriate, in that it does not include all areas where violations have been predicted to occur by the SRI International Report.

EPA-Proposed Redesignation: Oildale Area

The EPA is therefore proposing that the "Oildale Area" be extended southward to State Highways 178 (Freeway) and 204. Such an extension is proposed to the nearest convenient and easily described boundary. It would include all areas where violations of the SO_2 standards are predicted to occur, and would provide a buffer zone of one to two miles.

The boundaries of the "Oildale Area" being proposed by the EPA are as follows:

Beginning at the intersection of State Highway (S.H.) 178 (Freeway) and Universal Transverse Mercator (UTM) coordinate 326,000 east (Zone 11), thence westerly and southwesterly along S.H. 178 (Freeway) to its intersection with S.H. 204 (Golden State Avenue), thence northwesterly along S.H. 204 to its intersection with S.H. 99, thence northwesterly along S.H. 99 to its intersection with UTM coordinate 310,000 east, thence northerly along said coordinate to its intersection with the center line of Poso Creek, thence easterly and southeasterly along said center line to its intersection with UTM coordinate 326,000 east, thence southerly along said coordinate to the point of beginning.

EPA-Proposed Redesignation: Midway-Sunset Area

Because of the modeled violations noted above of the primary (annual and 24-hour) standards for SO_2 in the northern portion of the Midway-Sunset Oil Field, the EPA is proposing to retain the nonattainment (primary only) designation for that area. The proposed North Midway-Sunset nonattainment area is described as follows:

Township 31 South, Range 22 East, Mt. Diablo Base and Meridian.

Public Comments

The EPA is particularly interested in receiving comments on whether (1) the ARB-proposed (Kern River) boundary of the "Oildale Area" should be accepted; (2) the EPA-proposed (S.H. 178/ Freeway) boundary —or some other boundary south of the Kern River— should be adopted; or (3) the original (SJVAB portion of Kern County) nonattainment area designation should remain unchanged.

Effect of Redesignation

If a portion of Kern County is redesignated attainment for SO_2 as proposed (leaving the Oildale and Midway-Sunset areas under the nonattainment designation), the State would no longer be subject to the requirements of Part D of the CAA, as amended, for SO_2 in that portion of Kern County so redesignated. However, all of the SJVAB portion of Kern County remains subject to the requirements of Part D until the EPA approves such redesignation in a final rulemaking action. The Nonattainment Area Plan deadlines cannot be extended as a result of the reduction in size of a nonattainment area.

The EPA has determined that this action is "specialized" and therefore not subject to the procedural requirements of Executive Order 12044.

(Sections 107(d) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d) and 7801(a)).)

Dated: July 22, 1980.

Paul De Falco, Jr.,

Regional Administrator.

[FR Doc. 80-25152 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Parts 122-124 and 260-265

[FRL 1574-4]

Hazardous Waste Management System

Cross Reference:

For a document announcing EPA's intention to issue amendments to, interpretations of and answers to questions on its February 26, and May 19, 1980, hazardous waste regulations, see FR Doc. 80-25158 published elsewhere in this issue. Refer to the table of contents at the front of this issue under "Environmental Protection Agency" to determine the correct page number.

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5828]

National Flood Insurance Program; Proposed Flood Elevation Determination; Correction; Kansas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Lawrence, Douglas County, Kansas, previously published at 45 FR 37231 on June 2, 1980.

EFFECTIVE DATE: AUGUST 19, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Lawrence, Douglas County, Kansas previously published at 45 FR 37231 on June 2, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)).

The location described as, "Upstream corporate limits at County Road," under

the Source of Flooding of Hidden Valley Tributary, has been changed. The location should read, "Just downstream of corporate limits at County Road." The corresponding elevation of 834 feet remains unchanged.

Under the Source of Flooding of Hidden Valley Tributary, the following location descriptions and elevations should be added: "Just upstream of 23rd Street," with a corresponding elevation of 849 feet, and "About 3,000 feet upstream of 23rd Street," with a corresponding elevation of 877 feet.

The location described as, "Just upstream of Clinton Parkway," under the Source of Flooding of East Branch Yankee Tank Creek has been changed. The location should read, "Just upstream of 23rd Street." The corresponding elevation of 851 feet remains unchanged.

The location described as, "About 3,500 feet upstream of Clinton Parkway," under the Source of Flooding of East Branch Yankee Tank Creek, has been changed. The location should read, "About 3,500 feet upstream of 23rd Street." The corresponding elevation of 870 feet remains unchanged.

The elevation 829 feet which corresponds to the location described as, "Downstream corporate limits," under the Source of Flooding of Naismith Creek, has been changed. The elevation should be 828 feet. The location description remains unchanged.

The location described as, "About 1,000 feet upstream of Leonard Avenue," under the Source of Flooding of ATSF Tributary, has been changed. The location should read, "About 600 feet upstream of Leonard Avenue." The corresponding elevation of 861 feet remains unchanged.

The elevation 831 feet which corresponds to the location described as, "Mouth of Kansas River," under the Source of Flooding of Country Club-Hope Plaza Tributary, has been changed. The elevation should be 830 feet. The location description remains unchanged.

These changes will be reflected in the proof copies of the Flood Insurance Study and FIRM.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Kansas	(C) Lawrence, Douglas County	Hidden Valley Tributary	Just downstream of corporate limits at County Road	*834
			Just upstream of 23rd Street	*849
			About 3,000 feet upstream of 23rd Street	*877
		East Branch Yankee Tank Creek	Just upstream of 23rd Street	*851
			About 3,500 feet upstream of 23rd Street	*870
		Naismith Creek	Downstream corporate limits	*828
		ATSF Tributary	About 600 feet upstream of Leonard Avenue	*861
		Country Club-Hope Plaza Tributary	Mouth at Kansas River	*830

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127)

Issued: July 31, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24969 Filed 8-18-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR PART 67

[Docket No. FEMA-5881]

National Flood Insurance Program; Proposed Zone and Base Flood Elevation Determinations for the City of Pullman, Whitman County, Wash.

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed zones and base flood elevations as described below.

The proposed zones and base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed zones and base flood elevations are available for review at City Hall, 325 Paradise, S.E., Pullman, Washington 99163.

Send comments to: The Honorable Pete Betkus, Mayor, City of Pullman, 325 Paradise, S.E., P.O. Box 615, Pullman, Washington 99163.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street SW, Washington, D.C. 20410, (202) 755–6570 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free (800) 424–9080).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed zones and base flood elevations for the City of Pullman, Washington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67.

These zones and base flood elevations, together with the flood plain

management measures required by § 60.3 of the program regulations, are the minimum that are required. It should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. The proposed zones and base flood elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations in the recently annexed areas are:

Source of flooding	Location	Elevation, national geodetic vertical datum
South Fork Palouse River	West of Cleveland Street.	2,328
	Northernmost corporate limits.	2,323
Missouri Flat Creek	East of the intersection of Turner Drive with Route 27.	2,372
	East of the intersection of Larry Street with Route 27.	2,390
	Downstream of the Terre View Drive crossing.	2,400
Dry Fork Creek	West of the intersection of Sloop Road with Grand Street.	2,433

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued July 15, 1980.

Francis V. Reilly,

Acting Federal Insurance Administrator.

[FR Doc. 80-24981 Filed 8-18-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5780]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations, Virginia

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Salem, Virginia.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published at 45 FR 13486 on February 29, 1980, and in the *Salem Times-Register*, published on February 7, 1980, and February 14, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Salem Municipal Building. Send comments to: Honorable William Paxton, Jr., Salem City Manager, P.O. Box 869, Municipal Building, Salem, Virginia 24153.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Salem, Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program. (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Virginia	Salem, City	Roanoke, River	Downstream Corporate Limits	*983
			Norfolk and Western Railway (Upstream)	*990
			U.S. Route 11 (Apperson Drive) (Upstream)	*993
			State Route 419 (Cave Spring Road) Upstream	*997
			Upstream Crossing of U.S Route 11 (Apperson Drive) Upstream side	*999
			Colorado Street (Upstream)	*1,006
			Eddy Avenue (Upstream)	*1,012
			Mill Lane (Upstream)	*1,029
			Hammit Lane (Extended)	*1,044
			Dluguids Lane (Upstream)	*1,052
			Confluence of Butt Hollow	*1,055
		Mason Creek	Confluence with Roanoke River	*987
			Norfolk and Western Railway	*987
			Roanoke Boulevard (Upstream)	*996
			Lynchburg Turnpike (Upstream)	*1,013
			State Route 419 (Electric Road) Upstream	*1,016
			U.S. Route 460 (East Main Street) Upstream	*1,026
			Confluence of Gish Branch	*1,028
			Reece Road (Extended)	*1,036
			Garst Street	*1,047
			Dam 1, 950 feet upstream of Garst Street (Upstream)	*1,061
			Dam 2, 1,700 feet upstream of Garst Street	*1,063
			Dam 3, 3,200 feet upstream of Garst Street (Upstream)	*1,071
			Private Drive Approximately 1,300 feet upstream of Dam 3 (Upstream)	*1,080
			Upstream Corporate Limits	*1,087

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Gish Branch	Confluence with Mason Creek	*1,028
			Malone Hyde Building culvert outlet	*1,030
			Malone Hyde Building culvert inlet	*1,034
			Chamberlain Lane (Upstream)	*1,045
			Parksdale Drive (Upstream)	*1,050
			Stoutamire Drive (Extended)	*1,061
			State Route 631 (North Mill Road)	*1,095
		Williams Branch	Confluence with Roanoke River	*1,006
			Norfolk and Western Railway (most upstream crossing) Upstream side.	*1,012
			7th Street (Upstream)	*1,012
			6th Street (Upstream)	*1,014
			4th Street (Upstream)	*1,025
			2nd Street (Upstream)	*1,032
			Burwell Street culvert outlet	*1,044
			East Main Street culvert outlet (Downstream Side)	*1,049
			Clay Street culvert inlet	*1,052
			Market Street (Upstream)	*1,064
			Private Road (840 feet upstream of Market Street) Upstream Side	*1,075
			Hawthorne Road (Upstream)	*1,091
			Base of Private Pond Dam	*1,096
		Snyder Branch	Confluence with Williams Branch	*1,035
			Alabama Street culvert inlet	*1,042
			Roanoke Boulevard culvert inlet	*1,043
			College Avenue	*1,050
			Calhoun Street culvert inlet	*1,054
			East Main Street culvert inlet (Upstream)	*1,057
			Clay Street culvert inlet	*1,068
		High School Branch	Confluence with Roanoke River	*1,027
			Mill Lane (Upstream)	*1,027
			Norfolk and Western Railway (Downstream crossing) Downstream Side.	*1,028
			Norfolk and Western Railway (Upstream crossing) Upstream	*1,035
			Culvert outlet 120 feet upstream from Norfolk and Western Railroad	*1,035
			Culvert inlet 1,040 feet upstream from Norfolk and Western Railroad	*1,041
			60 feet upstream of culvert inlet	*1,042
		Dry Branch	Confluence with Roanoke River	*1,014
			Norfolk and Western Railway Downstream Crossing (Upstream)	*1,015
			Norfolk and Western Railway Upstream Crossing (Upstream)	*1,022
			Fourth Street (Upstream)	*1,022
			First Street (Extended)	*1,032
			Burwell Street (Upstream)	*1,039
			U.S. Route 460 (East Main Street) culvert inlet	*1,047
			James Street (Extended)	*1,064
			Marshall Street (Extended)	*1,072
			Field Drive (Extended)	*1,085
			Carrolton Avenue (Upstream)	*1,098
			Private Drive (1,290 feet upstream of Carrolton Avenue) Upstream	*1,121
			Upstream Corporate Limits	*1,141
		Cole Hollow Brook	Confluence with Roanoke River	*1,031
			Hurt Lane Downsteam	*1,034
			Norfolk and Western Railway (Upstream Crossing) Upstream	*1,036
			Confluence of Paint Bank Branch	*1,040
			U.S. Routes 11 and 460 (Downstream)	*1,044
			Homer Lane (Upstream)	*1,046
			Windsor Drive (Downstream)	*1,071
			Downstream Interstate 81 Off Ramp (Downstream)	*1,074
			Upstream Interstate 81 Off Ramp (Downstream)	*1,083
			Litchell Road Upstream	*1,092
			Upstream Corporate Limits	*1,098
		Paint Bank Branch	Confluence with Cole Hollow Brook	*1,040
			Culvert outlet 2,340 feet upstream of confluence with Cole Hollow Brook Upstream.	*1,045
			U.S. Routes 11 and 460 (West Main Street) Upstream	*1,054
			Rolling Wood Drive (Extended)	*1,071
			Valleydale Road (Upstream)	*1,108
			Jackson Drive (Extended)	*1,115
			Texas Hollow Road (Upstream)	*1,126
			Upstream Corporate Limits	*1,134
		Butt Hollow	Confluence with Roanoke River	*1,057
			Downstream Corporate Limits	*1,057
			Norfolk and Western Railway Downstream Crossing (Upstream)	*1,059
			Norfolk and Western Railway Upstream Crossing (Upstream)	*1,063
			U.S. Routes 11 and 460 (Upstream)	*1,073
			Howard Drive (Extended)	*1,102
			Butt Hollow Road (Upstream)	*1,108
			Upstream Corporate Limits	*1,137

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bowman Hollow	Confluence with Roanoke River	*1,002
			U.S. Route 11 (Apperson Drive) Downstream	*1,006
			Brook Avenue (Upstream)	*1,012
			Kimball Avenue (Upstream)	*1,020
			Private Drive 2,630 feet upstream of Kimball Drive (Upstream)	*1,059
			Franklin Street (Downstream)	*1,066
			Second Private Drive—220 feet upstream from Franklin Street (Upstream).	*1,073
			Third Private Drive 1,400 feet upstream from Franklin Street (Upstream).	*1,092
			Point 3,150 feet upstream from Franklin Street	*1,129
		Barnhardt Creek	Confluence with Roanoke River	*984
			Upstream Corporate Limits	*984

Maps available at the Salem Municipal Building.

Send comments to Mr. William Paxton, Jr., Salem City Manager, P.O. Box 869, Municipal Building, Salem, Virginia 24153.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001—4128; Executive Order 12127)

Issued: August 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24990 Filed 8-18-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5724]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Frankstown, Blair County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published at 44 FR 66445 on November 7, 1979, and in the *Altoona Mirror*, published on September 18, 1979, and September 25, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Frankstown Township Municipal Building. Send comments to: Honorable Harry Mattern, Chairman of the Board of Supervisors of Frankstown, R.D. 2, Hollidaysburg, Pennsylvania 16648.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426-1460 or Toll Free Lin. (800) 424-8872, Washington, D.C. 20...2.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of Frankstown, Blair County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Frankstown, Township, Blair County.	Frankstown Branch, Juniata River	11,700' downstream Township Route 444	*877
			Township Route 444 (Downstream side)	*888
			300' upstream of Conrail	*893
			White Bridge Road (Upstream side)	*916
			Legislative Route 07011 (Upstream side)	*922
			Township Route 405	*927
			Legislative Route 07012 (Upstream side)	*932
		Beaverdam Branch	Confluence with Frankstown Branch of Juniata River	*927
			Confluence with Brush Run	*931
		Canoe Creek	U.S. Route 22	*890
			Confluence of New Creek	*891
		New Creek	Private Drive (Upstream side)	*897
			Legislative Route 07021 (Upstream side)	*902
			1,540' upstream Legislative Route 07021	*907
			4,560' upstream Legislative Route 07021	*923
			1.3 miles upstream Legislative Route 07021	*937
			1.9 miles upstream Legislative Route 07021	*967

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Brush Creek	U.S. Route 22	*921
			Private Drive (Upstream U.S. Route 22)	*932
			Legislative Route 07011 (Upstream side)	*960
			Township Route 424	*966
			Legislative Route 07011 (0.2 mile upstream Route 424) Upstream side.	*1,003
			Legislative Route 07011 (0.99 mile upstream Route 424) Upstream side.	*1,165
			1,080' upstream of Private Drive	*1,252
		Oldtown Run	Legislative Route 07011	*927
			Township Route 378 (1.4 miles upstream Legislative Route 07011)	*949
			Township Route 378 (2nd crossing)	*989
			Township Route 376 (1st crossing)	*1,032
			Private Drive, approximately 1,170' upstream Township Route 376	*1,123
			1,300' upstream Private Drive	*1,150
		Brush Run	Confluence with Beaverdam Branch	*931
			U.S. Route 22	*936
			Upstream side of Scotch Valley Road/Township Route 424	*943
			Legislative Route 07015 (Upstream side)	*953
			U.S. Route 220 (Upstream side)	*955
			Upstream Corporate Limits	*961

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: August 7, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-24994 Filed 8-18-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-504; RM-3578]

FM Broadcast Station in Wray, Colo.; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of Proposed Rule Making

SUMMARY: This action proposes to assign Channel 252A to Wray, Colorado as the first FM channel in response to a petition filed by KRDZ Broadcasters, Inc.

DATE: Comments must be filed on or before October 6, 1980, and reply comments on or before October 27, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, Area 202: 632–7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments* FM Broadcast Stations (Wray, Colorado), BC Docket No. 80–504, RM–3578.

Adopted: August 6, 1980.

Released: August 14, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making[1] was filed by KRDZ Broadcasters, Inc. ("petitioner"), proposing the assignment of FM Channel 252A to Wray, Colorado, as that community's first FM assignment.

(b) Channel 252A could be assigned to Wray in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel if assigned.

2. *Demographic Data*—(a) *Location.* Wray is located in northeastern Colorado, approximately 240 kilometers (190 miles) ENE of Denver.

(b) *Population.* Wray 1,953; Yuma County 8,544.[2]

(c) *Local Aural Broadcast Service.* Daytime only AM Station KRDZ.

3. *Economic Considerations.* Petitioner did not provide community information. We request that it do so in comments.

4. In view of the fact that the proposed FM channel assignment would provide a first fulltime aural broadcast service to Wray, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Wray, Colorado, as follows:

City	Channel No.	
	Present	Proposed
Wray, Colorado		252A

5. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 6, 1980, and reply comments on or before October 27, 1980.

7. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-504; RM-3578]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments are reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-25196 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-502; RM-3423]

FM Broadcast Station in Spokane, Wash.; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign Channel 280A to Spokane, Washington as an eighth FM assignment in response to a petition from Thomas W. Read d.b.a. Read Broadcasting.

DATE: Comments must be filed on or before October 6, 1980, and reply comments on or before October 27, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau (Area 202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Spokane, Washington), BC Docket No. 80-502, RM-3423.

Adopted: August 6, 1980.

Released: August 15, 1980.

1. Thomas W. Read d.b.a. Read Broadcasting ("Read") has filed a petition for rule making seeking assignment of Channel 280A to Spokane, Washington.[1] Read states that he will apply for the channel, if assigned.

2. A city of 170,516, in a county (Spokane) of 287,487 population (population figures from the 1970 U.S. Census), Spokane is currently served by nine AM stations (six full time and three daytime-only), and seven FM stations. Located in the extreme eastern part of the State near the Idaho border, the city is, according to Read, a trading, medical, shopping and transportation center for an agricultural region containing over one million people.

3. The assignment of Channel 280A to Spokane would cause preclusion to seven communities with populations exceeding 1,000 and no local aural service.[2] Petitioner lists alternative channels (237A and 285A) for Davenport, Chewelah, Deer Park, Medical Lake and Newport, Washington. Two other communities—Wilbur, Washington, and Priest River, Idaho—will also sustain preclusion. Thus, a showing of alternative available channels should be provided in comments for those two communities.

4. While Spokane's other FM assignments are Class C facilities, Read is willing to apply for and operate on a Class A channel. Hence intermixture is not a problem. See *Yakima, Washington,* 42 FCC 2d 548 (1973).

5. As the proposed assignement is within 402 kilometers (250 miles) of the U.S-Canada border, Canadian concurrence must be obtained.

6. In view of the foregoing, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, as follows:

[1] Public Notice of the petition was given on August 3, 1979, Report No. 1187.

[2] This assumes a transmitter located in the center of the city. There is now pending an application to use Channel 282 (allocated to Wallace, Idaho) at Kellogg, Idaho, which, if granted, would require a Channel 280A transmitter site at least 8 kilometers (5 miles) west of Spokane.

City	Channel No.	
	Present	Proposed
Spokane, Washington...	225, 229, 251, 255, 260, 289, 300.	225, 229, 251, 255, 260, 280A, 289, 300.

7. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 6, 1980, and reply comments on or before October 27, 1980.

9. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau (202) 632-7792. However, members of the public should note that from the time a notice of proposed rulemaking is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-502 RM-3423]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.45 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-25245 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-503; RM-3587]

FM Broadcast Station in Ladysmith, Wis.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Ladysmith, Wisconsin, in response to a petition filed by Ruth Nelson. The proposed channel could provide for a second local FM commercial broadcast service to Ladysmith.

DATE: Comments must be filed on or before October 6, 1980, and reply comments on or before October 27, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Ladysmith, Wisconsin), BC Docket No. 80-503, RM-3587.

Adopted: August 6, 1980.

Released: August 15, 1980.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Ruth Nelson of Flambeau Broadcasting Co., licensee of Station WLDY(AM), Ladysmith, Wisconsin ("petitioner"), proposing the assignment of Channel 224A to Ladysmith, as that community's second FM assignment.

(b) The channel can be assigned to Ladysmith, provided the transmitter is located 6.3 kilometers (3.9 miles) southeast of Ladysmith.

(c) Petitioner states she will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location.*—Ladysmith, seat of Rusk County, is located in northern Wisconsin, approximately 169 kilometers (105 miles) northeast of Minneapolis-St. Paul, Minnesota.

(b) *Population.*—Ladysmith—3,674; [2] Rusk County—14,238.

(c) *Local Aural Service.*—Ladysmith is served locally by fulltime AM Station WLDY and FM Station WWIB (Channel 279).

3. *Economic Considerations.*—Petitioner states that the economic base is provided by recreational activities and agricultural products. Petitioner has submitted demographic and economic data with respect to Ladysmith and its need for an additional FM broadcast service.

4. *Preclusion Study.*—The assignment of Channel 224A to Ladysmith would cause preclusion only on the co-channel to some communities in the following. *counties: Wisconsin:* Oneida, Price, Lincoln, Taylor, Rusk, Iron, Chippewa, Eau Claire and Clark.

5. The assignment of Channel 224A to Ladysmith would result in intermixing a Class A channel and Class C channel (279). the Commission has a policy of permitting such intermixture where no other Class C channels are available for

[1] Public Notice of the petition was given on February 27, 1980, Report No. 1218.

[2] Population figures are taken from the 1970 U.S. Census.

assignment and (as here) the petitioner is willing to apply for the Class A channel in spite of the unfavorable competitive situation. *Yakima, Washington*, 42 F.C.C. 2d 548, 550 (1973); *Key West, Florida*, 45 F.C.C. 2d 142, 145 (1974). Petitioner offers moving the existing Station WWIB (Channel 279) to Cornell, as an alternative proposal, stating that although the Commission's Table of Assignments lists Station WWIB as being assigned to Ladysmith, it is not and never has been a Ladysmith station. However, since the station is licensed to serve Ladysmith, we do not agree that moving the assignment to Cornell would be desirable.

6. Since Ladysmith is located within 402 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment of Channel 224A to Ladysmith, Wisconsin, requires coordination with the Canadian Government.

7. In view of the foregoing information and the fact that the proposed assignment would provide a second local commercial FM broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to Ladysmith, Wisconsin, as follows:

City	Channel No.	
	Present	Proposed
Ladysmith, Wisconsin	279	224A, 279

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before October 6, 1980, and reply comments on or before October 27, 1980.

10. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-503 RM-3587]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.*—Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.*—The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.*—Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.*—In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.*—All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-25235 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-449; RM-3576]

FM Broadcast Station in Smithfield, Utah; Proposed Changes in Table of Assignments

AGENCY: The Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This action proposes to assign Channel 280A to Smithfield, Utah, as the first FM channel in response to a petition filed by Cache Valley Broadcasting Company.

DATE: Comments must be filed on or before October 6, 1980, and reply comments on or before October 27, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau Area 202: 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Smithfield, Utah), BC Docket No. 80-449, RM-3576.

Adopted: August 4, 1980.

Released: August 15, 1980.

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Cache Valley Broadcasting Company ("petitioner"), proposing the assignment of FM Channel 280A to Smithfield, Utah as the community's first local radio station.

(b) Channel 280A could be assigned to Smithfield in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Demographic Data:*

(a) *Location.*—Smithfield is located in north central Utah near the Idaho border.

(b) *Population.*—Smithfield—3,342; Cache County—42,331.[2]

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

[2] Population figures are taken from the 1970 U.S. Census.

(c) *Local Aural Broadcast Service.*—None.

3. *Economic Considerations.*—Petitioner states that from 1970, to present, population has increased 50% while the population of Cache County has increased 27%. Economic indicators show 35 retail establishments in 1977, 6 wholesale establishments in 1977. Retail sales are up 15% from 1972 to 1977.[3]

4. In view of the fact that the proposed FM channel assignment could provide for a first local aural broadcast service to Smithfield, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules, with regard to Smithfield, Utah, as follows:

City	Channel No.	
	Present	Proposed
Smithfield, Utah	.....	280A

5. The Commission's authority to institute rule making proceedings, showings required, cutoff procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before October 6, 1980, and reply comments on or before October 27, 1980.

7. For further information concerning this proceeding, contact Mark Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[3] This information comes from the Bureau of Economic and Business research, 401 Business Building, University of Utah, Salt Lake City, Utah.

Appendix

[BC Docket No. 80–449 RM–3576]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.28(b)(6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.*—Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.*—The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.*—Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.*—In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.*—All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–25236 Filed 8–18–80; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[BC Docket No. 80–448; RM–3575]

FM Broadcast Station in Pasco, Wash.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Pasco, Washington, in response to a petition filed by Tri-City Christian Center. The proposed channel could provide a first local commercial FM broadcast service to Pasco.

DATES: Comments must be filed on or before October 3, 1980, and reply comments must be filed on or before October 23, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, Area 202: 632–9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations, (Pasco, Washington), BC Docket No. 80–448, RM–3575.

Adopted: July 31, 1980.

Released: August 15, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rulemaking [1] was filed by Tri-City Christian Center ("petitioner"), proposing the assignment of Channel 252A ot Pasco, Washington, as that community's first commercial FM assignment.

(b) The channel can be assigned to Pasco in compliance with the minimum distance separation requirements.

(c) Petitioner states it will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location.*—Pasco, seat of Franklin County, is located approximately 290 kilometers (180 miles) southeast of Seattle, Washington, near the Oregon border. Pasco along with the

[1] Public Notice of the petition was given on February 20, 1980, Report No. 1215.

neighboring communities of Kennewick and Richland are known as the "Tri-Cities."

(b) *Population.*—Pasco 13,920; [2] Franklin County 25,816.

(c) *Local Aural Broadcast Service.*—Pasco is served locally by daytime AM Station KORD, full-time AM Station KONA and educational FM Station KOLU (Ch. 211C).

3. *Economic Consideration.*—Petitioner states that Pasco's economy is based on the river traffic of petroleum products and the shipment of agricultural products. It notes that the area to be served (known as Tri-Cities) was reported in a recent article in the Wall Street Journal as the fastest growing area in the United States. Economic and demographic information with respect to Pasco, has been submitted which demonstrate the need for an FM assignment.

4. *Preclusion Study.*—The assignment of Channel 252A to Pasco would cause new preclusion only on Channels 251 and 252A affecting communities in the northern portion of Wheeler County, Oregon, from using Channel 251. This assignment will also foreclose some communities in the following counties from an assignment on Channel 252A; *Washington:* Benton, Franklin and Walla Walla; *Oregon:* Gilliam, Morrow and Umatilla. Petitioner offers Channels 211A, 224A, 244A and 256A as possible alternate channels for some of the precluded areas. Petitioner states that in placing Channel 252A in Pasco, the preclusion area would be minimal and would serve more population than if it were allotted to any other area.

5. Since Pasco is located within 402 kilometers (250 miles) of the U.S.-Canadian border, the proposed assignment of Channel 252A to Pasco, Washington, requires coordination with the Canadian Government.

6. In view of the fact that the proposed FM channel assignment would provide for a first local commercial FM broadcast service in Pasco, Washington, the Commission believes it appropriate to propose amending the FM Table of Assignments, § 73.202(b) of the Commission's Rules with regard to Pasco, Washington, as follows:

City	Channel No.	
	Present	Proposed
Pasco, Washington		252A

[2] Population figures are taken from the 1970 U.S. Census.

7. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

NOTE.—A showing of continuing interest is required by Paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before October 3, 1980, and reply comments on or before October 23, 1980.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-448 RM-3575]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.*—Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.*—The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.*—Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.*—In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.*—All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-25197 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-438; FCC 80-479]

Representation of Stations by Representatives Owned by Competing Stations in the Same Area

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry.

SUMMARY: The Commission has adopted an inquiry to obtain information and comments to determine whether it should continue or change its policy which prohibits a representative, owned wholly or partially by the licensee of a competing station in an area, from representing a rival station in the same area.

DATES: Comments are due by October 14, 1980, and Reply comments by October 31, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jack Estepp, Complaints and Compliance Division, 202–632–3860.

In the matter of representation of stations by representatives owned by competing stations in the same area, BC Docket No. 80–438.

Notice of Inquiry

Adopted: July 31, 1980.

Released: August 13, 1980.

1. Recently the Commission received a Petition for Deregulation, and requests for modification of Commission policy [1] which prohibits a representative, under common ownership of a station, from representing a rival station in the same area. It is the purpose of this Notice of Inquiry to gather information regarding this policy to determine whether the policy should be continued in its present form or changed in some manner.

2. In *Golden West Broadcasters,* 16 FCC 2d 918, 15 RR 2d 938 (1969), the Commission adopted a policy regarding sales representatives. The Commission held that representation of a station by a sales representative owned wholly or partially by a licensee of a competing station in the same community or service area was a violation of long-standing Commission policy proscribing cross-interests by licensees in more than one station in the same service in the same area. The Commission stated that its objective was the promotion and maintenance of full competition between such stations; that representation of a station by a licensee or licensee-owned organization which operates a station in the same service in the same area gives the licensee-representative a large stake in the financial well-being of the station it represents, and that this relationship necessarily militates against competition between the two stations. Further, the Commission stated that the policy was based on its concern for potential impairment of competition, so that is was not necessary to find actual injury to competition, and that such representation was antithetical to those policies which are the underpinnings of the multiple ownership rules: the promotion of maximum diversification of program and service viewpoints. In the proceeding concerning *Combination Advertising Rates and Other Joint Sales Practices,* 51 FCC 2d 679, 32 RR 2d 1527 (1975), the Commission expanded the policy making it applicable to stations in all broadcast services. Later the Commission modified the policy to permit representation of one or more separately owned television stations by a representative owned wholly or partially by the licensee of a standard broadcast station or FM broadcasting station in the same area, and vice versa. *Combination Advertising Rates and Other Joint Sales Practices,* 59 FCC 2d 894, 37 RR 2d 785 (1976).

3. While a representative owned wholly or partially by a competing station in an area may not represent a rival station in the same area, the Commission has stated that it will permit representation of more than one station in an area if the representative is not owned by a competitor. In the proceeding concerning *Combination Rates and Other Joint Sales Practices,* 51 FCC 2d 679, 32 RR 2d 1527 (1975), the Commission stated in regard to representing more than one station in an area:

> We do believe it would serve the public interest to restrict such multiple representation at this time. We have no evidence of anti-competitive results from multiple representation, and we note from the tenor of comments that there are insufficient radio representatives available to represent all stations desiring representation, with the smaller stations experiencing the greatest difficulty. We also note that independent television stations, particularly UHF stations, have difficulty in obtaining representation. While a representative may represent two or more separately owned stations in the same community, it may not sell them in combination. For example, it will be expected that such representatives will not sell or offer to sell time in combination for two separately owned stations in the same community, will enter into separate contracts with clients for each station represented and will leave all decisions as to contracting for the sale of time, including rates charged to each individual licensee. We are not unmindful that questions may arise as to unfair practices because of multiple representation. Therefore, we will consider on a case-by-case basis any such questions and should we receive information that unfair practices result, we will consider this matter further.

4. Thus, in accordance with the present policy, a representative may represent any number of stations, except a representative owned by a television station may not represent a rival television station in the same area and a representative owned by a radio station may not represent a rival (AM or FM) radio station in the same area.

5. All the recent requests for change of Commission policy have concerned representation of radio stations, but we believe that comments should be elicited on all aspects of the policy. Thus, comments regarding television stations are requested also.[2]

6. The Petition for Deregulation filed by Torbet Radio (Torbet) states that the number of national radio representatives has diminished with 30 radio sales representatives going out of business in the past 12 years. It attributes this to the extremely high cost of maintaining offices in major markets and to the need for extensive research material which has required more personnel and utilization of high cost computer facilities. Torbet states that there is a very limited number of national sales representative firms, that the number will continue to diminish, and that most of the large representative firms are affiliated with owners of broadcast stations which makes fewer representatives available in markets where they are affiliated in ownership. Torbet points out that another limiting factor is that some representatives, because of competitive considerations, will not represent stations in a market where the stations are competing for the same audience. Torbet contends that if the policy were changed a greater number of stations would be competing for national advertising business.

7. Parties commented that it is commonplace for national radio representatives (not affiliated with a radio station in the area) to act as sales agents for more than one station in an area, that there have been no abuses and that the situation would not change if representatives were allowed to expand the practice in markets where affiliated stations operate.

8. Other comments assert that a sales representative generally takes no part in programming or other operational decisions of the stations represented, including those stations with whom they are affiliated in ownership. The representative is merely a sales agent for the station, receives no confidential information and sells time based upon demographics. In order for the representative to obtain maximum income it must sell as much time as possible on each station it represents and there is no economic incentive for a sales representative to favor a station with which it is affiliated. Also a representative does not decide how much time an advertiser will purchase or on what stations the advertising will be placed since these decisions are made by the advertiser and his agent, the advertising agency. Thus, it is asserted that it is unrealistic to believe

[1] These requests were filed by McGavren Guild, Inc., Torbet Radio and Buckley Radio Sales, Inc.

[2] We propose no change and request no comments with regard to § 73.658(i) of the Rules which provides that networks may not represent affiliates for non-network time.

that a sales representative can significantly affect the advertiser-station relationship because of bias in favor of one station.

9. Buckley comments that the choice of sales representatives should be left to the parties and if a licensee is dissatisfied it can obtain another representative. It argues that the Commission should focus on whether the public is injured as a result of representation by a licensee-related sales representative and points out that ABC is permitted to operate television, AM and FM stations in Los Angeles and to provide multiple radio networks serving several competing stations in the Los Angeles market. Buckley contends that such concentration of program activities far exceeds any concentration by representation of a rival radio station by a licensee-owned representative in the same area.

10. We are requesting information concerning our policy as to licensee-owned representatives. The policy was adopted to assure open and full competition between competing stations. At this time we have an outstanding proceeding for deregulation, *Deregulation of Radio*, 73 FCC 2d 457, 46 RR 2d 237 (1979), which is founded on the basis of substantial competition between stations, and we will scrutinize comments carefully to assure that we are not undermining the premise for this deregulation proceeding. In any event, so we can be more fully informed, we seek information on the following:

(a) To what degree, if any, do sales representatives provide guidance or consultation on the program service provided by the stations they represent?

(b) To what degree, if any, would there be a lessening of economic competition between two separately owned stations in the same area if one owns a sales representative company that represents the other?

(c) To what degree, if any, would representation in a market by a representative owned by another station in that market result in access to confidential business information that would not normally be available to competitors?

(d) Should the policy as to representatives be repealed or modified in some manner?

(e) If the policy were changed to permit a representative owned by a licensee to represent a rival station in the same area, should it be qualified to permit such representation only until the Commission received a complaint that the practice was causing harm?

(f) If so, what showing should be made by a complainant?

(g) Should the policy as it pertains to television stations be different from that relating to radio stations?

(h) Should the policy be applied if the stations do not compete for the same audience?

(i) What factors should the Commission consider in determining whether stations are competing in an area?

(j) Do radio networks represent separately owned radio stations in areas where the network, or company under common ownership of the network, is licensed to operate a radio station? Examples of such network representation are requested.

(k) Should the policy regarding radio networks be different from that pertaining to non-network representatives?

11. Parties filing comments may also provide any additional pertinent information they believe will be useful to the inquiry.

12. Authority for the institution of this proceeding, is found in Sections 4(i) and 403 of the Communications Act of 1934, as amended, and § 1.1 of the rules.

13. Pursuant to the applicable procedures set out in §§ 1.4, 1.46 and 1.415 of the Commission's rules, interested persons may file comments on or before October 14, 1980, and reply comments on or before October 31, 1980. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

14. In accordance with the provisions of § 1.419 of the Rules, an original and five copies of all comments, replies, pleadings, briefs and other documents shall be furnished the Commission. Participants who wish each Commissioner to have a personal copy may file six additional copies, and members of the general public may submit one copy of their comments. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-25190 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-505; RM-3393]

TV Broadcast Stations in Jacksonville, Lumberton, Roanoke Rapids and Rockingham, North Carolina; Farmville and Kenbridge, Virginia; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action take here proposes (1) assignment of new television channels to Lumberton, Roanoke Rapids and Rockingham, North Carolina—all to be reserved for noncommercial educational use; (2) reservation for noncommercial educational use of an existing assignment at Jacksonville, North Carolina and (3) shifting of a reserved assignment from Kenbridge, Virginia to Farmville, Virginia.

DATE: Comments must be filed on or before October 14, 1980, and reply comments on or before November 3, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Myra G. Kovey, Broadcast Bureau, (Area 202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 8, 1980.

Released: August 15, 1980.

By the Chief, Policy and Rules Division:

1. Citing the need for statewide noncommercial educational service of high quality and reliability, the University of North Carolina ("UNC") has filed a petition for rule making [1] seeking three new reserved television channels and one reservation of an existing assignment. As the proposal now stands, all of UNC's contemplated facilities can be constructed and operated in conformity with our minimum distance separation requirements and without site restrictions of any kind.[2] UNC states that it will apply for the requested channels, if assigned.[3]

2. With respect to UNC's specific requests, petitioner plans first to serve the north central portion of North Carolina with a new Channel *36

[1] Public Notice of the petition was given on July 11, 1979, Report No. 1183.

[2] Supplements to UNC's original petition have eliminated several problems of short spacing. The Association of Maximum Service Telecasters, Inc., which opposed the original filing because of these problems, has accordingly withdrawn its objection.

[3] UNC is currently the licensee of eight noncommercial educational television stations and five translator stations.

assignment at Roanoke Rapids (pop. 13,508, 1970 U.S. Census). This facility would provide a first noncommercial educational service to 48,900 persons, petitioner claims, and an improved service to many others.

3. Reserving for noncommerical educational use the existing Channel 19 assignment at Jacksonville (1970 pop. 16,289) would provide a first noncommerical educational service to 105,000 persons in the southeastern coastal area of the State, UNC continues.[4] Assigned to Jacksonville in 1968, Channel 19 has never been occupied, indicating, UNC argues, a total lack of interest in its use on a commerical basis.

4. Channels *31 at Lumberton (1970 pop. 16,961), and *53 at Rockingham (1970 pop. 5,852), would serve the south central portion of the State, UNC concludes, providing a new Grade A service to 137,000 persons and an improved service to many others now poorly served by existing facilities. Channel *31 at Kenbridge, Virginia, would have to be deleted to accommodate the Lumberton request. UNC has requested that the channel be reassigned to Farmville, Virginia—a shift to which the Virginia Public Telecommunications Council does not object.

5. The Commission is persuaded that a rule making proceeding should be instituted, it being our opinion that the new and improved noncommerical educational service planned by UNC could confer a substantial benefit to the public. Accordingly, we propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Jacksonville, North Carolina	19	*19
Lumberton, North Carolina		*31
Roanoke Rapids, North Carolina		*36–
Rockingham, North Carolina		*53
Farmville, Virginia		*31–
Kenbridge, Virginia	*31–	

6. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

[4] UNC has applied for authority to construct an educational television station on Channel 19 in Jacksonville.

7. Interested parties may file comments on or before October 14, 1980, and reply comments on or before November 3, 1980.

8. For further information concerning this proceeding, contact Myra G. Kovey, Broadcast Bureau, (202) 632-7792. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contact are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-25192 Filed 8-18-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 90

[FR Docket No. 80-416; RM-3428]

Amendment of Part 90 of the Commission's Rules and Regulations to allow the use of digital voice modulation in the Power Radio Service

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The FCC proposes to amend its rules to permit the use of digital voice modulation in the Power Radio Service. This proposed amendment is in response to a petition filed by the Utilities Telecommunications Council.

DATES: Comments must be filed on or before October 8, 1980, and reply

comments on or before November 7, 1980.

ADDRESSES: Federal Communications Commission, Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: William P. Berges, Private Radio Bureau (202) 632-6497.

SUPPLEMENTARY INFORMATION:

Adopted: July 23, 1980.

Released: August 15, 1980.

By the Commission:

1. The Utilities Telecommunications Council (UTC) has filed a petition (RM-3428), requesting amendment of Part 90 of the Commission's Rules, to allow the use of digital voice modulation in the Power Radio Service for security purposes.

2. In support, UTC noted that Power Radio Service licensees provide essential utilities services to the public and that interruption of these services can have a detrimental effect on the public welfare. UTC also pointed ut that there is concern both in the Federal Government [1] and in the utilities industry about attempts to intercept communications of utilities in general and nuclear power facilities in particular. As part of their security precautions, UTC said that utilities would like to secure some of their more sensitive communications through digital voice scrambling systems.

3. Presently we authorize analog but not digital scrambling techniques in the Power Radio Service. However, analog modulation can be easily intercepted. Digital modulation can be encrypted and provides a much higher degree of communications security. The use of digital voice modulation is permitted in the Police and Fire Radio Services only.[2] We limited the use of digital modulation to those services when we adopted the interim standards for digital system in our *First Report and Order* in Docket No. 21142,[3] because of potential conflicts with ordinary voice operations.

4. We have considered UTC's petition carefully and we believe it should be granted. Apparently, Power Radio Service licensees often require a high degree of security in their radio communications. We also recognize that the frequency coordination is very effective in the Power Radio Service. In our First Report and Order in Docket No. 21142, we said: ". . . we believe that considering the untried nature of digital voice modulation, it would be prudent to restrict its authorization to those services where re-use of a frequency in a particular geographic area is at a minimum, or where such use is carefully coordinated among licensees engaged in essentially similar activities." It appears that the Power Radio Service meets these tests.

5. Accordingly, we propose to amend Section 90.207 to permit digital modulation (F3Y and F9Y) in the Power Radio Service.

6. Authority for issuance of this Notice is contained in Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments on or before October 8, 1980, and reply comments on or before November 7, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public files and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

7. In accordance with the provisions of Section 1.419 of the Rules and Regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

8. For further information concerning this document, you may contact William P. Berges, (202) 632-6497.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 90 of the Commission's Rules would be amended as follows:

1. In § 90.207, paragrqaph (k) is amended to read as follows:

§ 90.207 Types of emission.

* * * * *

(k) For stations in the Fire, Police, and Power Radio Services utilizing digital voice modulation in either the scrambled or unscrambled mode F3Y emission will be authorized. Authorization to use F3Y is construed to include the use of F9Y emission subject to the provisions of paragraphs (a), (b), and (d) of § 90.233.

2. In § 90.212 paragraph (b) is amended to read as follows:

§ 90.212 Provisions relating to the use of scrambling devices and digital voice modulation.

* * * * *

(b) The use of digital scrambling techniques or digital voice modulation requires the specific authorization of F3Y emission, and this emission will be authorized only to stations in the Police, Fire and Power Radio Services, subject to the provisions of paragraph (d) of this section.

[FR Doc. 80-25234 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

[1] See e.g. § 73.55 of the Nuclear Regulatory Commission's Rules and Regulations (CFR § 73.55) pertaining to the requirements for nuclear power facilities to protect themselves against nuclear sabotage.

[2] See generally, *First Report and Order*, Docket No. 21142, FCC 78-70, released February 9, 1978, and *Second Report and Order* Docket No. 21142, FCC 79-756, released December 3, 1979, in which we authorized digital voice emission in the Police and Fire Radio Services.

[3] See *First Report and Order*, Docket No. 21142, supra, at para. 5.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

[Ex Parte No. 55 (Sub-No. 36)]

Administrative Appeals From Motor Carrier Board Decisions; Discontinuance of Proposed Rules

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Discontinuance of Proposed Rules.

SUMMARY: By notice in this proceeding published at 44 FR 22765 (April 17, 1979), the Commission proposed rules which would make single Commissioner appellate action on Motor Carrier Board decisions administratively final. In Ex Parte No. MC-67 (Sub-No. 9), *Revised temporary Authority Rules*, 45 FR 45525 (July 3, 1980), the Commission issued final rules which abolished the Motor Carrier Board and delegated appellate jurisdiction on temporary authority

decisions under 49 U.S.C. 10928 to Review Boards. Accordingly, no purpose would be served by the rules proposed in this proceeding, and the proceeding will be discontinued.

FOR FURTHER INFORMATION CONTACT:
Paul Grossman, 202–275–7976
Edward E. Guthrie, 202–275–7691

It is ordered:

The proceeding is discontinued.

Dated: August 11, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–25068 Filed 8–18–80; 8:45 am]
BILLING CODE 7035–01–M

Notices

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Biocontrol Laboratory, Moore Air Base, Mission, Tex.; Issuance of Negative Declaration

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of Environmental Assessment and Negative Declaration.

SUMMARY: This gives notice that the Animal and Plant Health Inspection Service is not preparing an environmental impact statement concerning the proposed construction of a Biocontrol Laboratory at Moore Air Base (USDA facility), Mission, Texas. The proposed Biocontrol Laboratory would be used to rear biological agents which have been shown to be capable of controlling crop pests.

The environmental assessment of this action indicates that a similar type facility at Moore Air Base has not caused significant adverse local, regional, or national impacts on the environment in the past. There are no adverse environmental impacts anticipated in the future for this new facility. No significant controversy has been associated with this project. As a result of these findings, it has been determined that the preparation and review of an environmental impact statement is not needed for this action.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Dr. John H. Green, Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782 (301–436–8237).

SUPPLEMENTAL INFORMATION: This notice has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant".

The Animal and Plant Health Inspection Service is responsible for controlling both diseases and pests of plants and animals. One major activity of this agency is controlling insects and other pests which are harmful to animals and agricultural crops. Up to now the main methods of controlling these pests has been by use of chemical pesticides.

The demonstrated past and present successes of biocontrol projects have shown biological agents to be a more economically and environmentally prudent alternative to chemical control of agriculturally harmful insects and other pests. The proposed Biocontrol Laboratory will be especially designed and engineered to meet the specific growing requirements of biological agents used in biocontrol projects.

The proposed facility will have three segregated areas for rearing up to three different biological agents in confinement in order to avoid cross contamination.

The Moore Air Base facility has already been used by the U.S. Department of Agriculture for research and development of biocontrol agents. The proposed new Biocontrol Laboratory will augment this growing and important program with a facility specifically designed for the purpose and incorporating updated technology. No administrative action will be taken until September 3, 1980.

Done at Washington, D.C., this 12th day of August 1980.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80-24889 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-34-M

Construction of the National Monitoring and Residue Analysis Laboratory, Gulfport, Miss.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability of Environmental Assessment and Negative Declaration.

SUMMARY: This gives notice that the Animal and Plant Health Inspection Service is not preparing an environmental impact statement concerning the construction of a new laboratory facility to house the National Monitoring and Residue Analysis Laboratory, Gulfport, Mississippi. Most of the laboratory functions to be performed in the proposed laboratory facility already exist and are presently being performed throughout several other buildings which comprise the Animal and Plant Health Inspection Service's Gulfport facility. The environmental assessment of this proposed action indicates that the existing laboratory functions have not caused significant adverse local, regional or national impacts upon the environment in the past. There are no adverse environmental impacts anticipated in the future for this proposed action. No significant controversy has been associated with this project. As a result of these findings, it has been determined that the preparation and review of an environmental impact statement is not needed for this action.

FOR FURTHER INFORMATION CONTACT: Copies of the environmental assessment are available upon request from Dr. John H. Green, Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 271, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782 (301–436–8237).

SUPPLEMENTAL INFORMATION: This notice has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant."

The Animal and Plant Health Inspection Service, through its Plant Protection and Quarantine programs, is responsible for collecting agricultural, forestry and other plant samples throughout the nation. These samples are sent to the Animal and Plant Health Inspection Service facility at Gulfport for laboratory analysis to determine pesticide or other chemical residues. The proposed new laboratory facility would combine several existing laboratory units into a more efficient laboratory system. The new facility would be specifically designed for the housing and operation of two of the

main laboratory components: a gas liquid chromatography unit coupled in operation to a mass spectophotometer for more efficient and rapid analysis of plant material extracts. The rest of the proposed new laboratory facility would be technical and administrative support to the gas liquid chromatography and mass spectrophotometry units. No administrative action will be taken until September 3, 1980.

Done at Washington, D.C., this 12th day of August 1980.

Harry C. Mussman,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80-24890 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-34-M

Farmers Home Administration

[FCDA No. 10.420]

Rural Self-Help Housing Technical Assistance; Self-Help Rehabilitation/ Repair Assistance Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) has the ability to provide grants, under the authority in Section 523 of Title V of the Housing Act of 1949, to public and private nonprofit organizations to administer programs of technical and supervisory assistance to aid low-income families to rehabilitate their homes through the mutual self-help method. The families normally finance their homes with section 502 rural housing loans and Section 504 rural housing rehabilitation loans and/or grants, but also may utilize other financial resources.

Rural areas have about one-fourth of the nation's population and 60 percent of its substandard housing. The nonmetopolitan household has been substantially more likely to have a leaky roof or holes in the floor of the house than the urban household. That is partly explained by the fact that there is a 20 percent better chance that they are living in a pre-1940 house. There were 1.9 million households living in substandard housing in 1975. Nearly all of these households were low-to-moderate income. Consequently, the solution to their housing needs is not new construction, rather the solution is the rehabilitation of existing housing. Rehabilitation is more than the structural improvement of housing units, it also includes the installation of necessary plumbing, including hot running water.

Under the authority of Section 523 of Title V of the Housing Act of 1949, FmHA proposes to increase the use of the self-help housing rehabilitation and repair provisions of the Act, and to evaluate the effectiveness of that program. Subpart I of Part 1933, Chapter XVIII, Title 7, Code of Federal Regulations, governs the program. 7 CFR 1933.410 will be followed in preparing preapplications and applications. Since the intention of FmHA is to work toward expanding the use of self-help repair and rehabilitation, FmHA will develop an evaluation plan. Such an evaluation plan could provide for determining, among other things:

A. If the mutual self-help method is economically and socially feasible for housing rehabilitation and repair.

B. What are the relationships, between (a) type of work proposed and hours of labor contributed by families and (b) type of work proposed and the size of the group needed to accomplish the completion of job.

7 CFR 1933.409(a)(1)–(a)(3) provides special conditions that must be met before technical assistance grant funds may be used for repair and rehabilitation purposes.

Applicants will submit an original and 1 copy of proposal (Application) to the FmHA District Office within 45 days of the publishing of this Notice. The District Office will review and make written comments, and submit the original and copy of each proposal to the FmHA State Director within 14 days. The State Director will review each proposal and recommend no more than three, with comments, to FmHA National Office for review. Those not recommended will be advised of appeal rights under 7 CFR 1900–B.

It is anticipated that approximately $1,000,000 will be initially available for funding of TA grants for self-help repair and rehabilitation proposals.

FOR FURTHER INFORMATION CONTACT: Mr. Cliff Herron, Multiple Family Housing Loan Division, Room 5337, Farmers Home Administration, telephone 202–447–7207.

The FmHA programs and projects which are affected by this instruction are subject to State and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H.

Dated: August 7, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-25103 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-07-M

Office of the Secretary

Citizens' Advisory Committee on Equal Opportunity; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act notice is hereby given of a public meeting of the USDA Citizens' Advisory Committee on Equal Opportunity on September 7–9 in Room 218A, Administration Building, 14th and Independence Avenue, Washington, D.C. commencing at 8:30 a.m.

The purpose of the meeting is to consider USDA's programs and opportunities for the rural population. The agenda will include representatives from the Office of the Assistant Secretary for Rural Development with a specific segment on Farmer's Home Administration.

The meeting is open to the public to observe Committee operations. Interested persons may make written comments to and obtain further information regarding the Committee from:

Elda R. Inoue, Office of the Assistant Secretary for Administration, Room 212E Admin Building, Washington, D.C. 20250, Phone: 202/447–7247.

John A. Meranda,

Acting Assistant Secretary for Administration.

[FR Doc. 80-25104 Filed 8-18-80; 8:45 am]

BILLING CODE 3410-95-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. Appendix I (the Act) and paragraph 8.b. of Office of Management and Budget Circular No. A–63 (revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on September 11, 1980 from 10 a.m. to 6 p.m. and on September 12, 1980 from 8:30 a.m. to 2 p.m. at 2201 C Street, NW, Washington, DC, in Room 5941.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065 dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of August 8, 1980 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph

8.d.(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: August 14, 1980.

Walter L. Baumann,

Acting Advisory Committee, Management Officer.

[FR Doc. 80-25238 Filed 8-18-80; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Docket 34141]

Application of Trans-Panama, S.A.; Hearing

Notice is hereby given pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on October 7, 1980, at 9:30 a.m. (local time), in Room 1003, Hearing Room A, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 14, 1980.

Elias C. Rodriguez,

Administrative Law Judge.

[FR Doc. 80-25231 Filed 8-18-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Merchant Marine and Fisheries Capital Construction Funds; Applicable Rates of Interest on Nonqualified Withdrawals

Under the authority in section 607(h)(4) of the Merchant Marine Act, 1936, (46 U.S.C. 1101), as amended by section 21 of the Merchant Marine Act of 1970 (84 Stat. 1031), we hereby determine and announce that the applicable rate of interest on the amount of additional tax attributable to any nonqualified withdrawals from a capital construction fund established under section 607 of the Act shall be 10.36 percent, with respect to nonqualified withdrawals made in the taxable year beginning in 1980.

The determination of the applicable rate of interest with respect to nonqualifed withdrawals was computed according to the joint regulations issued under the Act (46 CFR Part 391 § 391.7(e)(2)(ii)) by multiplying 8 percent by the ratio which (a) the average yield on 5-year Treasury securities for the calendar year immediately preceding the beginning of such taxable year, bears to (b) the average yield on 5-year Treasury securities for the calendar year 1970. The applicable rate so determined was computed to the nearest one-hundredth of 1 percent.

Dated: August 11, 1980.

Samuel B. Nemirow,

Assistant Secretary for Maritime Affairs.

Richard A. Frank,

Administrator, National Oceanic and Atmospheric Administration.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 80-24840 Filed 8-18-80; 8:45 am]

BILLING CODE 3510-15-M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

Correction

In FR Doc. 80-24104, at page 53192, in the issue of Monday, August 11, 1980, on page 53193 in the middle column, the sixth full paragraph now reading "Docket No.: 79-00062." is corrected to read "Docket No.: 80-00062."

BILLING CODE 1505-01-M

National Bureau of Standards

Status Report on Withdrawal of Voluntary Product Standards

AGENCY: Department of Commerce, National Bureau of Standards.

ACTION: Maintenance, Retention, Replacement, and Withdrawal of certain Voluntary Product Standards.

On June 19, 1980, the Department of Commerce (Department) announced in the **Federal Register** (45 FR 41475-6) the withdrawal, effective August 18, 1980, of 80 documents classifed as Voluntary Product Standards. The withdrawl announcement was made in accordance with a revisions to the Procedures for the Development of Voluntary Product Standards (15 CFR Part 10) which was announced in a separate notice in that same issue of the **Federal Register** (45 FR 41401-08) and which went into effect on June 19, 1980. The revised Procedures specify six criteria which must be met for the department to sponsor the development or maintenance of a standard. Section 10.13 of the revised Procedures provided that within the period ending August 18, 1980, interested parties could submit a request to the director of the National bureau of Standards (NBS) to retain a particular standard or standards in accordance with those specified criteria. Several such requests have been received, and determinations have been reached on those requests as indicated below.

Based on proposals from the proponent organizations identified after the following titles, the following product standards will continue to be sponsored by the Department:

PS 1-74, Construction and Industrial Plywood; American Plywood Association
PS 20-70, American softwood Lumber Standard; American Lumber Standards Committee
PS 56-73, Structural Glued Laminated Timber; American Institute of Timber Construction
PS 73-77, Carbonated Soft Drink Bottles; Glass Packaging Institute

Based on documented activity within a private standards-writing organization, the following standards will be retained by NBS for the stated periods of time to permit the orderly transfer of sponsorship of such standards from the Department to the identified organizations:

PS 13-69 Uncorded Slab Urethane Foam for Bedding and Furniture cusioning; American society for Testing and Materials; 24 months
PS 15-69, Custom Contact-Molded Reinforced-Polyester Chemical-Resistant Process Equipment; Society of the Plastics Industry; 12 months
PS 17-69, Polyethylene-sheeting (construction, Industrial, and Agricultural Applications); Society of the Plastics Industry; 12 months
PS 23-70, Horticultural Grade Perlite; the Perlite Institute; 12 months
PS 24-70, Melamine Dinnerware (Alpha-Cellulose Filled) for Household Use; Society of the Plastics Industry; 12 months
PS 25-70, Heavy-Duty Alpha-Cellulose-Filled Melamine Tableware; Society of the Plastics Industry; 12 months
PS 27-70, Mosaic-Parquet Hardwood Slat Flooring; American Parquet Association; 6 months
PS 29-70, Plastic Heat-Shrinkable Film; Society of the Plastics Industry; 12 months
PS 30-70, School Chalk; the Crayon, Water Color and Craft Institute, Inc.; 18 months
PS 31-70, Polystyrene Plastic Sheet; Society of the Plastics Industry; 12 months

PS 34–70, Flurorinated Ethylene-Propylene (FEP) Plastic Lined Steel Pipe and Fittings; Society of the Plastics Industry; 12 months
PS 36–70, Body Measurements for the Sizing of Boys' Apparel; Mail Order Association of America; 24 months
PS 42–70, Body Measurements for the Sizing of Women's Patterns and Apparel; Mail Order Association of America; 24 months
PS 45–71, Body Measurements for the Sizing of Apparel for Young Men (Students); Mail Order Association of America; 24 months
PS 46–71, Flame-Resistant Paper and Paperboard: American society for Testing and Materials; 18 months
PS 51–71, Hardwood and Decorative Plywood; Hardwood Plywood Manufacturers Association; 24 months
PS 52–71, Polytetrafluoroethylene (PTFE) Plastic ; Society of the Plastics Industry; 12 months
PS 53–72, Glass-Fiber Reinforced Polyester Structural Plastic Panels; Society of the Plastics Industry; 12 months
PS 54–72, Body Measurements for the Sizing of Girls' Apparel; Mail Order Association of America; 24 months
PS 57–73, Cellulosic Fiber Insulation Board; American Hardboard Association; 6 months
PS 58–73, Basic Hardboard; American Hardboard Association; 6 months
PS 59–73, Prefinished Hardboard Paneling; American Hardboard Association; 6 months
PS 60–73, Hardboard Siding; American Hardboard Association; 6 months
PS 62–74, Grading of Diamond Powder in Sub-Sieve Sizes; Industrial Diamond Association of America; 12 months
PS 63–75, Latex Foam Mattresses for Hospitals; American Society for Testing and Materials; 24 months
PS 64–75, School Paste; the Crayon, Water Color and Craft Institute, Inc.; 18 months
PS 65–75, Paints and Inks for Art Education in Schools; The Crayon, Water Color and Craft Institute, Inc.; 18 months
PS 67–76, Marking of Gold Filled and Rolled Gold Plate Articles Other Than Watchcases; Jewelers Vigilance Committee; 36 months
PS 68–76, Marking of Articles Made of Silver in Combination with Gold; Jewelers Vigilance Committee; 36 months
PS 69–76, Marking of Articles Made Wholly or in Part of Platinum; Jewelers Vigilance Committee; 36 months
PS 70–76, Marking of Articles Made of Karat Gold; Jewelers Vigilance Committee; 36 months
PS 71–76, Marking of Jewelry and Novelties of Silver; Jewelers Vigilance Committee; 36 months
CS 98–62, Artists' Oil Paints; Artists Equity Association, Inc.; 18 months
CS 130–60, Color Materials for Art Education in Schools; The Crayon, Water Color and Craft Institute, Inc.; 18 months
CS 138–55, Insect Wire Screening; Insect Screening Weavers Association; 12 months
CS 151–50, Body Measurements for the Sizing of Apparel for Infants, Babies, Toddlers and Children (for the Knit Underwear Industry); Mail Order Association of America; 24 months
CS 192–53, General Purpose Vinyl Plastic Film; Society of the Plastics Industry; 12 months
CS 201–55, Rigid Polyvinyl Chloride Sheets; Society of the Plastics Industry; 12 months
CS 227–59, Polyethylene Film; Society of The Plastics Industry; 12 months
CS 245–62, Vinyl-Metal Laminates; Society of the Plastics Industry; 12 months
CS 257–63, TFE-Fluorocarbon (Polytetrafluoroethylene) Resin Molded Basic Shapes; Society of the Plastics Industry; 12 months
CS 268–65, Hide Trim Pattern for Domestic Cattlehides; National Hide Association; 12 months
CS 274–66, TFE–Fluorocarbon (Polytetrafluoroethylene) Resin Sintered Thin Coatings for Dry Film Lubrication; Society of the Plastics Industry; 12 months
R 2–62, Bedding Products and Components; National Association of Bedding Manufacturers; 12 months
R 192–63, Crayons and Related Art Materials for School Use (Types, Sizes, Packages, and Colors); the Crayon, Water Color and Craft Institute, Inc.; 18 months

The following standards have been replaced by standards published by private standards-writing organizations and, therefore, Department of Commerce sponsorship is no longer needed for them:

PS 26–70, Rigid Poly (Vinyl Chloride) (PVC) Profile Extrusions replaced by ASTM D 3678–78, Specification for Rigid Poly (Vinyl Chloride) (PVC) Profile Extrusions
PS 43–71, Fluorinated Ethylene-Propylene (FEP) Plastic Tubing replaced by ASTM D 3296–74, Specification for FEP-Fluorocarbon Resin Tubing
PS 47–71, Heat-Shrinkable Fluorocarbon Plastic Tubing replaced by ASTM D 2902–75, Specification for Fluorocarbon Resin Heat-Shrinkable Tubing
PS 55–72, Rigid Poly (Vinyl Chloride) (PVC) Plastic Siding replaced by ASTM D 3679–79 Specification for Rigid Poly (Vinyl Chloride) (PVC) Siding
CS 11–63, Moisture Regain of Cotton Yarns replaced by ASTM D 1909–77 Standard Table of Commercial Moisture Regains for Textile Fibers and ASTM D 2494–74 Standard Method of Test for Commercial Weight of a Shipment of Yarn or Man-Made Staple Fiber
CS 21–58, Interchangeable Taper-Ground Joints, Stopcocks, Stoppers, and Spherical-Ground Joints replaced by ASTM E 675–79 Standard Specification for Interchangeable Stopcocks and Stoppers, ASTM E 676–79 Standard Specification for Interchangeable Taper-Ground Joints, and ASTM E 677–79 Standard Specification for Interchangeable Spherical-Ground Joints
CS 75–56, Automatic Mechanical-Draft Oil Burners Designed for Domestic Installations replaced by ANSI Z 91.2–1976 Performance Requirements for Automatic Pressure Atomizing Oil Burners of the Mechanical-Draft Type
CS 191–53, Flammability of Clothing Textiles replaced by ASTM D 1230–61 (1972) Test for Flammability of Clothing Textiles
CS 202–56, Industrial Lifts and Hinged Loading Ramps replaced by ANSI MH14.1–1978 Industrial Loading Dockboards (Ramps)
CS 209–57, Vinyl Chloride Plastics Garden Hose replaced by ASTM D 3901–80 Standard Consumer Product Specification for Graden Hose
CS 236–66, Mat-Formed Wood Particleboard replaced by ANSI A 208.1–1979 Mat-Formed Particleboard

In the absence of any request for retention or maintenance, the following standards will be withdrawn, as previously announced, on August 18, 1980:

PS 4–66, Standard Stock Light-Duty 1-3/8-and 1-3/4-inch Thick Flush-type Interior Steel Doors and Frames
PS 6–66, Trim for Water-Closet Bowls, Tanks and Urinals (Dimensional Standards)
PS 28–70, Glass Stopcocks with Polytetrafluoroethylene (PTFE) Plugs
PS 38–70, Steel Bi-fold Closet Door Units, Frames, and Trim
PS 40–70, Package Quantities of Green Olives
PS 41–70, Package Quantities of Instant Mashed Potatoes
PS 44–71, Paper Ice Bag Sizes
PS 48–71, Package Quantities of Cubed, Sized, Crushed, and Block Ice
PS 49–71, Portable Picnic Coolers
PS 50–71, Package Quantities of Toothpaste
CS 5–65, Pipe Nipples; Brass, Copper, Steel, and Wrought Iron
CS 46–65, Hosiery Lengths and Sizes Excluding Women's
CS 234–61, Measurements for Stretch Socks and Anklets
CS 242–62, Standard Stock Commercial 1-3/4-Inch Thick Steel Doors and Frames
CS 269–65, Aluminum Alloy Chain Link Fencing
R 46–55, Tissue Wrapping Paper
R 222–46, Hot-Rolled Carbon Steel Bars and Bar-Size Shapes
R 264–61, Standard Sizes of Oil-Hardenable Flat, Ground Tool Steel Stock

In accordance with section 10.1(e) of the revised Procedures for the Development of Voluntary Product Standards and by agreement with the Consumer Product Safety Commission, the Department will retain sponsorship of the following two Product Standards until such time as arrangements for their sponsorship by a private standards-writing organization can be made:

PS 66–75, Safety Requirements for Home Playground Equipment
PS 72–76, Toy Safety

For further information contact: James E. French, Office of Engineering Standards, National Bureau of Standards, Washington, D.C. 20234, Telephone: (301) 921–3272.

Dated: August 15, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-25250 Filed 8-18-80; 8:45 am]

BILLING CODE 3510-13-M

Office of the Secretary

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act as amended, 5 U.S.C. App. 1976, notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Monday, September 22, 1980, from 9:30 a.m. to 4:00 p.m. in Room 4830 Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Board was established by the Secretary of Commerce on January 12, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

- A review of the economic outlook by major sector.
- A discussion of the outlook for prices and employment and of strategies for sustaining economic growth and dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-serve basis. Public participation will be limited to request for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Chief Economist for the Department of Commerce, Room 4848, Department of Commerce, Washington, D.C. 20230, Telephone (202) 377-3523.

Dated: August 14, 1980.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

[FR Doc. 80-25202 Filed 8-18-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Restraint Levels for Certain Man-Made Fiber Textile Products from Singapore

August 13, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation level for other man-made fiber yarn wholly of non-continuous filament, in Category 604, exported from Singapore during the agreement year which began on Januray 1, 1980 from 700,000 pounds to 975,610 pounds.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: By an exchange of letters, the Governments of the United States and Singapore have agreed, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, to increase the consultation level previously established for man-made fiber textile products in Category 604 to 975,610 pounds during the 12-month period which began on January 1, 1980.

EFFECTIVE DATE: August 18, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377-5423)

SUPPLEMENTARY INFORMATION: On December 20, 1979, there was published in the **Federal Register** (44 FR 75440) a letter dated December 14, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Category 604, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has agreed to increase the consultation level for Category 604 to 975,610 pounds during the agreement year which began on January 1, 1980. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry of man-made fiber textile products in Category 604 in excess of the adjusted twelve-month level of restraint.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

U.S. Department of Commerce International Trade Administration

Committee for the Implementation of Textile Agreements

August 13, 1980.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 14, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on August 18, 1980 and for the twelve month period which began on January 1, 1980 and extends through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 604, produced or manufactured in Singapore, in excess of 975,610 pounds.[1]

The action taken with respect to the Government of Singapore and with respect to imports of man-made fiber textile products from Singapore has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provision of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-25188 Filed 8-18-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Finding of No Significant Impact Disposal of FS Smoke

The Defense Property Disposal Service (DPDS), a field activity of the Defense Logistics Agency (DLA), plans

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

to dispose of approximately 3.7 million pounds of FS Smoke (sulfur trioxide-chlorosulfonic acid mixture). The FS Smoke is currently located at the Naval Weapons Support Center, Crane, Indiana (3,225 drums); Naval Weapons Station, Earle, Colts-Neck, New Jersey (574 drums); and U.S. Army Ammunition Plant, McAlester, Oklahoma (400 drums).

Consistent with the intent of Section 102(2) of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR 1500–1508) and DoD Directive 6050.1, notice is hereby given that an Environmental Impact Statement is not being prepared for this action. An Environmental Assessment has been completed from which it has been determined that this action will not have a significant impact on the human environment.

The recommended course of action is to offer the FS Smoke for sale. The FS Smoke will be offered for sale "as is-where is". The appropriate terms and conditions (e.g., environmental protection, transporting hazardous materials, indemnification, and work practice standards) will be included in the invitation for bid and the sale of the item will be accomplished in accordance with prescribed sale procedures, including the use of an end-use certificate. These actions are considered to be sufficient to minimize the risk of environmental pollution as a result of implementing the proposed action. If sales actions fail, the FS Smoke will be disposed of through service contract by one or a combination of the following methods:

a. Burial in a hazardous waste landfill.
b. Chemical treatment.
c. Incineration.
d. Continued storage.

Any of the above alternatives must be effected in accordance with provisions of the Resources Conservation and Recovery Act (RCRA).

The Environmental Assessment may be reviewed in the office of Mr. George M. Jonas, Jr., Chief, Environmental Branch, Defense Property Disposal Service, Battle Creek, Michigan 49016. A limited number of copies of the Environmental Assessment are available from the same office to fill single copy requests.

Dated: August 13, 1980.

Lawrence R. Smith,

Colonel, USA, Staff Director, Installation Services and Environmental Protection.

[FR Doc. 80-25213 Filed 8-18-80; 8:45 am]

BILLING CODE 3620-01-M

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing; Approval of Projects

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, August 27, 1980, commencing at 1:30 p.m. The hearing will be part of the Commission's regular August business meeting which is open to the public. Both the hearing and the meeting will be held at the Goddard Conference Room, at the Commission's offices, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing will be applications for approval of the following projects as amendments to the Comprehensive Plan pursuant to Article 11 of the Compact and/or as project approvals pursuant to Section 3.8 of the Compact.

1. *Forest Lakes Water Company (D–74–94 CP).* A well water supply project to serve the Forest Lakes community in Andover Township, Sussex County, N.J. Designated as Well No. 3, the new facility will be used as backup for an existing well and is expected to yield up to 230,000 gallons per day.

2. *Pennsylvania Department of Environmental Resources (D–80–6 CP and D–80–7 CP).* A water supply system and sewage collection and treatment facility to serve the French Creek State Park in Union Township, Berks County, and Warwick Township, Chester County, Pa. Two wells with a design capacity of 280,000 gallons per day will be utilized. The sewage treatment facility will provide removal of 85% of BOD with ultimate disposal by spray irrigation.

3. *Larchmont Farms (D–79–3).* A well water supply project to provide water supplies on the subject farm in Upper Pittsgrove Township, Salem County, N.J. Two wells are expected to yield up to a combined maximum of 1.4 million gallons per day, which will be used for supplemental irrigation of 230 acres of fruit crops.

4. *Clair Taylor (D–79–41).* A well water supply project at the subject farm in Cedarville, Cumberland County, N.J. A maximum of 12 million gallons per month would be withdrawn and used for irrigation of crops.

5. *Clair Taylor (D–80–56).* A surface water withdrawal at the subject farm in Lawrence Township, Cumberland County, N.J. A maximum of 16 million gallons per month would be withdrawn from Cedar Lake on Cedar Creek and used for irrigation of 80 acres of crops.

6. *Totten Farms (D–80–5).* A well water supply project at the subject farm in North Hanover Township, Burlington County, N.J. The well is expected to yield about 290,000 gallons per day and would be used for the irrigation of crops.

7. *Rocco Infante, Jr. (D–80–53).* A surface water withdrawal to serve the subject farm in Upper Freehold Township, Monmouth County, N.J. A maximum of 20 million gallons per month would be withdrawn from an unnamed tributary of Doctors Creek and used for irrigation of 100 acres of crops.

8. *Ellis F. Herbert (D–80–54).* A surface water withdrawal at the subject farm in Upper Freehold Township, Monmouth County, N.J. A maximum of 6 million gallons per month would be withdrawn from an unnamed tributary of Assunpink Creek and used for irrigation of 30 acres of crops.

9. *Joseph Klein and Son (D–80–55).* A surface water withdrawal at the subject farm in Upper Freehold Township, Monmouth County, N.J. A maximum of 30 million gallons per month would be withdrawn from Doctors Creek and used for the irrigation of 150 acres of crops.

Documents relating to the above-listed projects may be examined at the Commission's offices. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the date of the hearing.

Dated: August 13, 1980.

W. Brinton Whitall,

Secretary.

[FR Doc. 80-25212 Filed 8-18-80; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

National Advisory Council for Career Education; Meeting

AGENCY: Department of Education, National Advisory Council for Career Education.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the National Advisory Council for Career Education. It also describes the functions of the Council. Notice of the meetings is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463). This documnet is intended to notify the general public of their opportunity to attend.

DATE: September 11–12, 1980.

ADDRESS: Hubert Humphrey Building, 200 Independence Avenue, S.W., Room 403A–425A, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Nancy N. Swandby, Department of Education, Office of Career Education,

7th and D Streets, S.W., ROB 3, Room 3108A, Washington, D.C. 20202, (202) 245-2331.

The National Advisory Council for Career Education is established under Section 406 of the Education Amendments of 1974, Pub. L. 93-380, (88 Stat. 552, 553). The Council is directed to:

Advise the Secretary of Education and the Assistant Secretary for Elementary and Secondary Education on the implementation of Section 406 of the Education Amendments of 1974, Sections 331-336 of the Education Amendments of 1976, and the Career Education Incentive Act and carry out such advisory functions as it deems appropriate, including reviewing the operation of these sections and all other programs of the Department of Education pertaining to the development and implementation of career education, evaluating their effectiveness in meeting the needs of career education throughout the United States, and in determining the need for further legislative remedy in order that all citizens may benefit from the purposes of career education as described in Section 406 and in the Career Education Incentive Act.

The Secretary, to the extent practicable, seeks the advice and assistance of the Council concerning the lifelong learning activities authorized by Sec. 133 of Part B of Title I of the Higher Education Act of 1965, as amended.

The meeting of the Council shall be open to the public. The meeting will be held on Thursday, September 11 and Friday, September 12, 1980 and will begin at 9 A.M. and end at 4:30 P.M. The meeting will be held at the Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The proposed agenda includes:
Council Discussion—Old Business
Career Education and Postsecondary Education
Career Education and Adult Education
Council Discussion—New Business

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the Office of Career Education located at 7th and D Streets, S.W., Room 3100, Washington, D.C. 20202.

Signed at Washington, D.C. on August 12, 1980.

John Lindia,

Delegate National Advisory Council for Career Education.

[FR Doc. 80-25205 Filed 8-18-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-80-002; OFC Case Nos. 61020-9140-01-12, 61020-9140-05-12, 61420-9140-06-12]

Availability of Tentative Staff Determination

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of availability of tentative staff determination.

SUMMARY: On December 31, 1980, Convent Chemical Corporation (Convent or the Company) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting each of three new major fuel burning installations (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum or natural gas as a primary energy source in certain new MFBIs. Applicable criteria for petitioning for exemptions from the prohibitions of FUA are published at 10 CFR Part 500, *et seq.* (Interim Rules). ERA published Final Rules relating to New Facilities on June 6, 1980, (45 FR 38276 and 38302) which became effective August 5, 1980.

The MFBIs for which the petition was filed are a field erected, coal-fired boiler (identified as Unit 31-F-1 or Unit 1) and two package boilers (identified as Units 31-F-5 and 31-F-6, or Unit 5 and Unit 6, or waste-gas boilers) to be installed at Convent's new industrial chemical plant, Convent, Louisiana.

The design operating characteristics of the three boilers are:

	Boiler 31-F-1	Boiler 31-F-5	Boiler 31-F-6
Size:			
Input (MMBtu/hr)	303	176	181
Output (MMBtu/hr)	250	150	150
Steam output: Thousand lbs/hr	250	150	150
Fuel capabilities	(1)	(2)	(3)

[1] Coal, natural gas, No. 2 fuel oil.
[2] Natural gas and a mixture of waste-gas and natural gas.
[3] Natural gas and a mixture of waste-gas and natural gas or No. 2 fuel oil.

Note.—The waste-gas proposed to be used in the fuels mixture is a process by-product composed of mostly hydrogen gas and water (wet hydrogen gas).

Convent proposed to burn a mixture of coal and natural gas or No. 2 fuel oil in Unit 1, to burn a mixture of waste gas (a gaseous by-product of its chlorine-caustic process and EDC process plants) and natural gas in Unit 5, and to burn a mixture of waste gas and natural gas or No. 2 fuel oil in Unit 6. Convent contended that the waste gas by-product is an alternate fuel because it is a by-product of industrial operations. Convent proposed to burn No. 2 fuel oil in Unit 1 and Unit 6 only as a back-up fuel in the event natural gas becomes unavailable.

Convent stated that, when the new chemical plant is operating normally according to design specifications, producing products and the waste gas by-product at anticipated volumes, the amount of natural gas or Btu equivalent in No. 2 fuel oil used in its proposed fuel mixtures will not exceed 25 percent of the total annual Btu heat input of the primary energy source of each boiler. The Company submitted a duly authorized certification to that effect for each unit.

ERA accepted the petition for a permanent exemption to burn a fuels mixture in each boiler on January 30, 1980. Notice of that acceptance was published in the **Federal Register** on Tuesday, February 5, 1980 (45 FR 7828). The publication of the Notice of Acceptance started a 45-day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The period for submitting written comments and to request a public hearing closed on March 2, 1980. A public hearing was not requested and no written comments were received.

ERA staff has reviewed the information contained in the record of this proceeding to date. A Tentative Staff Determination has been made recommending that ERA issue an order that would grant the requested permanent exemptions to use a fuels mixture of natural gas or No. 2 fuel oil and coal in Unit 1; natural gas and waste gas in Unit 5; and natural gas or No. 2 fuel oil and waste gas in Unit 6.

A public file containing a copy of the Tentative Staff Determination and other documents and supporting material on this proceeding is available upon request at: ERA Room B-110, 2000 M Street, NW., Washington, D.C., Monday-Friday, 8:00 a.m.-4:30 p.m.

ERA will issue a final order, in accordance with Sections 501.68 and 503.38 of the final rules, granting or denying the petition for permanent exemptions within six months after the public comment period provided for in this notice has closed unless ERA extends such period. Notice of any extension, together with a statement of the reasons therefore, will be published in the **Federal Register.**

DATES: Written comments on the Tentative Staff Determination and

requests for a public hearing are due on or before September 13, 1980.

ADDRESSES: Fifteen copies of written comments, and any request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461. Docket Number ERA–FC–80–002 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–4226.

Edward J. Peters, Jr., Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3126–A, Washington, D.C. 20461, Phone (202) 653–4253.

Allan Stein, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION:

Concurrent with its petition for permanent exemptions Convent petitioned ERA pursuant to 10 CFR Section 505.15 of ERA's Interim Rules for a temporary public interest exemption for Units 1, 5 and 6 to permit the Company to burn natural gas in Unit 5 and natural gas or No. 2 fuel oil in Units 1 and 6 as the primary energy source in the respective units, while the production units and ancillary equipment are started up, tested, and brought up to normal operation, producing products and by-products at design specification rates. The amount of natural gas or No. 2 fuel oil used by each unit would decrease as sufficient waste gas became available. Natural gas or No. 2 fuel oil would represent no more than 25 percent of the annual Btu heat input of each unit by August 1981. ERA rejected the petition for public interest exemptions for Units 1, 5, and 6 as incomplete and advised the Company of this action by letter dated January 30, 1980.

Convent also requested ERA to classify the waste gas by-product of its chlorine-caustic and EDC processes as an alternate fuel in accordance with the provisions of 10 CFR 500.2 of the Interim Rules which defines as an alternate fuel waste gas from industrial operations. The term industrial for this purpose does not pertain to refineries.

Convent described its waste gas as by-products of its chlorine-caustic processes and its EDC process. The composition of this waste gas by volume is:

Element	Percent*
Hydrogen	58
Water	25
Methane	7
Nitrogen	6
Oxygen	4
Total	100

*Convent states that the percentage may vary from time to time due to operating conditions at the processing plants.

After staff analysis of the chemical plant operation, ERA staff concluded that by any criteria under consideration to define a "refinery" for this purpose, Convent's chemical plant operation would not be included in such a definition. Accordingly, ERA has determined that this plant is an industrial operation and classified the above described waste gas from the chlorine-caustic and EDC processing operations as an alternate fuel. Convent was notified of this action on June 9, 1980.

To qualify for a permanent fuels mixture exemption a petitioner must demonstrate to the satisfaction of ERA that:

(1) He proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat input of the primary energy sources used by the installation needed to maintain operational reliability consistent with maintaining a reasonable level of fuel efficiency.

If a mixture exemption is granted, ERA may not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the primary energy sources used by the installation.

In addressing the eligibility requirements, and the evidentiary requirements in § 505.28 (a) and (c)(4) of the Interim Rules, Convent states that it will be using a mixture of sub-bituminous coal and natural gas or No. 2 fuel oil as the primary energy source in Unit 1, a mixture of waste gas and natural gas as the primary energy source in Unit 5, and a mixture of waste gas and natural gas or No. 2 fuel oil as the primary energy source in Unit 6.

Convent certified that the total amount of natural gas or its oil Btu equivalent proposed to be used in Unit 1 will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by the unit. The Company also certified that after the plant testing and start-up are completed and the plant has been proved capable of operation at design capacity the amount of natural gas proposed to be used in Unit 5, and the amount of natural gas or the fuel oil Btu equivalent to be used in Unit 6 will not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by each unit. Convent expects to reach normal operation by August 1981.

When the plant becomes fully operational and is producing waste gas reliably and in sufficient quantities to become the primary energy source for the waste gas Units 5 and 6, Convent estimates that its range of annual consumption of natural gas or No. 2 fuel oil will, depending upon the balance of the steam producing system and the operating mode of the plant, be:

Boiler	Volumes (million CF)	Trillion Btu heat input	Percentage of total annual Btu heat input
31–F–1:			
Coal		[1] 1.565–1.934	77–95
Natural gas [2]	93–449	.097–.467	5–23
31–F–5:			
Waste gas		.551–.636	77–89
Natural gas	75–157	.078–.163	11–23
31–F–6:			
Waste gas		.551–.636	77–89
Natural gas [2]	75–157	.078–.163	11–23

[1] Based on sub-bituminous coal (11,000 Btu/lb) consumption at a rate of 21,906 lbs/hr.

[2] Boilers 31–F–1 and 6 have the capability to burn No. 2 fuel oil equivalent as a back-up fuel if natural gas is not available.

Convent estimates that the initial plant start-up period will take approximately 12 months. This period includes start-up and testing of each of the three boilers, the EDC plant and the chlorine-alkali plants individually, and the subsequent integration of the several units into a working, reliable plant at which time the waste gas stream from the processing units will become available as the primary energy source for the mixture used in Units 5 and 6. These 12 months have been divided into two phases for planning purposes. The first period begins when the waste gas boilers are mechanically completed in October 1980, and ends approximately three months later in December 1980. In the three month period some waste gas

will be produced and used, but not in sufficient quantity to be effectively used as the primary energy source for the fuels mixture used in either of the two waste gas boilers.

The second period covers the following eight months (January thru August 1981) during which the coal-fired Unit 1 will be brought on line and the individual process plants will become fully integrated into a workable whole, meeting plant design specifications. During this time the whole plant will begin to produce sufficient quantities of waste gas to burn in the waste gas boilers. Depending on the frequency and severity of problems arising during this final period, Convent estimates that the consumption of natural gas required for total plant start-up and break-in will drop considerably as the waste gas by-product becomes available in sufficient quantity to be used as the primary source of energy in the fuels mixture.

The proposed amount of natural gas or fuel oil equivalent to be used and the percentage of total Btu input during the 12 month period is estimated as follows:

	Natural gas volume (million CF)	Natural gas heat input (billion Btus)	Alternate fuel heat input (billion Btus)	Percentage of total Btu heat input attributable to natural gas
October Through December 1980				
Boiler:				
31-F-1	(Not ready for operation)			
31-F-5	202	210	6	97
31-F-6	[1] 202	210	6	97
January Through August 1981				
Boiler:				
31-F-1	[1] 231	240	930	21
31-F-5	124	129	358	27
31-F-6	[1] 124	129	358	27

[1] Or No. 2 fuel oil Btu equivalent.

As the plant moves into its normal operating mode, producing products and the waste gas by-products, all available waste gas will be utilized in a mixture with natural gas for burning in Unit 5, and with natural gas or No. 2 fuel oil for burning in Unit 6 until in August 1981, when the plant reaches its normal operating mode, the natural gas used in the fuels mixture for Unit 5 and the natural gas or fuel oil equivalent used in the fuel mixture for Unit 6 will represent less than 25 percent of the total annual Btu heat input of each boiler.

Prior to such time, to achieve the normal operating rate of the plant, and of each boiler using the proposed fuels mixture, some additional natural gas is needed for use in Unit 5, and additional natural gas or No. 2 fuel oil equivalent is needed for use in Unit 6. ERA staff are persuaded that this additional natural gas or oil—Convent estimates that an additional 326 million CF of natural for Unit 5 and an additional 326 million CF of natural gas, or No. 2 fuel oil equivalent for Unit 6, is required during this period for each waste gas boiler—would not exceed the minimum percentage of the total Btu heat input of the primary energy sources of the unit needed to maintain reliability of operation of the units, consistent with maintaining a reasonable level of fuel efficiency.

Based upon its review and analysis, the ERA staff has tentatively determined that Convent demonstrated that, pursuant to Section 212(d) of the Act and the applicable Interim Rules, it is eligible for the requested permanent fuels mixture exemptions for each of the three new boilers. Therefore, ERA's staff recommends that ERA issue an order granting Convent the requested permanent exemptions from the prohibitions of Title II of the Act in order to burn a mixture of coal and natural gas or No. 2 fuel oil in Unit 1, a mixture of waste gas and natural gas in Unit 5, and a mixture of waste gas and natural gas or No. 2 fuel oil in Unit 6, provided the amount of natural gas or oil to be used in each unit, after the first commencement of normal plant production, in August 1981, does not exceed 25 percent of the total annual Btu heat input of the primary energy sources used by each installation.

This recommendation takes into account the purposes for which the minimum percentage of natural gas provided by a fuels mixture exemption is to be used, i.e., to maintain reliability of operation, consistent with maintaining a reasonable level of efficiency. Therefore, should this exemption be granted, ERA will not exclude any fuel from the definition of primary energy source for the purpose of unit ignition, start-up, testing, flame stabilization, and control uses for each of the three subject boilers.

It is further recommended that, under the terms and conditions of this order, Convent be permitted to use the amounts of natural gas or No. 2 fuel oil in units 5 and 6 necessary to start, test, and obtain a useable and reliable waste gas stream from the process units for use in the fuels mixture proposed for units 5 and 6. It is recommended that such amounts not exceed 326 million CF of natural gas in unit 5, and not exceed 326 million CF of natural gas or No. 2 fuel oil Btu equivalent in Unit 6.

On the basis of the environmental analysis provided by the Office of Fuels Conversion, and reviewed by the Office of Environment, in consultation with the Office of the General Counsel, DOE has concluded that the issuing of an order granting these exemptions will not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act. Accordingly, neither an environmental impact statement nor an environmental assessment is required.

Terms and conditions: Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon the information furnished by Convent, and upon the results of the staff analysis, the ERA staff has tentatively determined and recommends that any order that would grant the exemptions described above should, pursuant to Section 214 of the Act, be on the following terms and conditions:

(1) Convent will, within thirty (30) days of the date of this order, provide ERA with a compliance plan setting forth a complete schedule of milestones for the full completion and start-up of the plant. If, as the work in the facility progresses, a completion date is missed, or it appears that a milestone will be delayed for more than thirty (30) days, Convent shall report such occurrence to ERA giving the reasons therefor and an appraisal of the effect, if any, the delay will have on the final completion of the plant and compliance with this order;

(2) Convent will make effective use of each of the fuel conservation measures identified and listed in its Fuels Decision Report furnished with its petition for

exemptions and operate each unit in a fuel efficient manner;

(3) Consistent with required compliance with any pertinent rules or regulations concerning the acquisition or distribution of natural gas that are administered by the Federal Energy Regulatory Commission or any appropriate State regulatory agency, Convent is to be urged to make all reasonable efforts to obtain and use natural gas instead of No. 2 fuel oil in units 1 and 6. Further, if while under this order, Convent decides to modify unit 5 in such a way as to make it capable of buring No. 2 fuel oil, or other petroleum product, Convent must notify ERA, prior to such modification, of its intention to convert the unit to petroleum and petition ERA for an exemption from the prohibitions of the Act in the event it wishes to use petroleum in the unit.

(4) Convent must notify ERA, in writing at the address given in item 8 of the commencement of the first use of natural gas or oil in each of units 1, 5, and 6.

(5) Natural gas may be used in unit 5 in an amount not to exceed 326 million CF during the one year period following the commencement date of the use of natural gas in the unit for the purpose of start-up and testing the unit and providing the process steam to establish the reliable generation of the waste gas in sufficient quantities to become one of the primary energy sources of the fuels mixture in the normal operating mode;

(6) Natural gas or No. 2 fuel oil (not to exceed the Btu equivalent of natural gas) may be used in unit 6 in an amount not to exceed 326 million CF during the one year period following the commencement date of the use of natural gas or No. 2 fuel oil in the unit for the same purposes described in item 5 above;

(7) In 1981, within 30 days after the anniversary of the first use natural gas or oil in each boiler Convent shall submit, to the address noted in item 8 below, an annual report containing the following:

(a) A duly executed certification that the amount of natural gas or No. 2 fuel oil used in unit 1 did not exceed 25 percent of the total annual Btu heat input of the primary energy source of the unit;

(b) A duly executed certification that for the first year after the commencement of the use of natural gas in unit 5, that the amount of natural gas consumed did not exceed 326 million CF; and

(c) A duly executed certification that for the first year after the commencement of the use of natural gas or No. 2 fuel oil in unit 6 that the amount of natural gas consumed did not exceed 326 million CF of natural gas or the Btu heat input equivalent of No. 2 fuel oil;

(8) In accordance with the reporting requirements in section 503.38(g) of the Final Rules, Convent will submit an annual report to the Economic Regulatory Administration (ERA), Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW, Washington, DC 20461, each year, beginning in 1982, within 30 days after the anniversary of the first use of natural gas or oil in each boiler, containing the following:

(a) A duly executed certification that the amount of natural gas or No. 2 fuel oil used in unit 1 did not exceed 25 percent of the total annual Btu heat input of the primary energy source of the unit;

(b) A certification that the amount of natural gas used in unit 5 did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit; and

(c) A certification that the amount of natural gas or No. 2 fuel oil used in unit 6 did not exceed 25 percent of the total annual Btu heat input of the primary energy sources of the unit; and

(9) In addition, Convent will include in its annual report:

(a) Identification of the actual quantities of coal (in tons), waste gas (in MCF), natural gas (in MCF), and No. 2 fuel oil (in bbls) used during the year in each boiler as well as the heating value (in Btu's) of each of these fuels. The following format for quantities will be used for each boiler:

Fuel types; Amounts used (tons) (MCF) (Bbls); Btu equivalent; Percentage of annual fuel consumption

(b) Identification of any new fuel conservation measures employed at the site during the year, estimate of the fuels savings achieved, and assessment of the effectiveness of the conservation measures in energy savings.

This Tentative Staff Determination does not constitute a decision by ERA to grant the requested exemptions. Such a determination will be made in accordance with 10 CFR 501.68 of the Final Rules on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Determination.

Issued in Washington, DC on August 13, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-25096 Filed 8-18-80; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the July 1 Through September 30, 1980 Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect revised export levels of Canadian heavy crude oil for the month of August 1980.

ERA issued a supplemental allocation notice for August 1980 on July 11, 1980 (45 FR 48181, July 18, 1980), reflecting previously announced export levels of Canadian heavy crude oil. Since that notice was issued, the Canadian National Energy Board (NEB) has increased exports of heavy crude oil for August 1980 from 31,620 B/D to 56,793 B/D; exports of light crude oil for August 1980 remain at 50 B/D. The sole purpose of this notice is to revise the heavy crude oil allocations for August that were issued on July 11, 1980; otherwise, the July 11 notice is correct and remains in effect.

Allocation of Canadian Heavy Crude Oil

The NEB has advised ERA that the authorized export level for Canadian heavy crude oil for the month of August 1980 is revised from 31,620 B/D to 56,793 B/D.

Ashland Oil Inc., Koch Refining Co., and Laketon Asphalt Refining, Inc., all of whom submitted nominations for Canadian heavy crude oil for the July through September allocation period, have advised ERA of changes in their respective nominations for heavy crude oil for the month of August. Ashland advised ERA that it would be able to accept only 1,926 B/D of Canadian heavy crude oil at its St. Paul Park, Minnesota, refinery in August. Koch advised that because of the late notice of additional heavy crude oil availability, recent crude oil deliveries, and a planned refinery shutdown, it would be unable to take more than 27,540 B/D of heavy crude oil in August. Laketon declined any heavy crude oil for August because the volume it would have received would have been to small to tender to pipelines. ERA has given effect to the changes in the nominations of these firms in the allocations of heavy crude oil assigned for August.

In allocating heavy crude oil for August, ERA has used the following procedures, which are set forth in § 214.31(a)(3). The first priority refineries for which nominations had been received were allocated heavy

crude oil equal to one-fourth of their base period volumes of Canadian heavy crude oil. The nominations for first priority refineries (Ashland—St. Paul Park; Koch—Pine Bend; and Murphy—Superior) were less than the refineries' base period volumes of heavy crude oil and less than the total heavy crude oil available for allocation, so these refineries were assigned allocations equal to their nominations. Pursuant to § 214.31(a)(3)(iii), second priority refineries for which nominations were received were allocated heavy crude oil equal to one-fourth of their respective base period volumes of Canadian heavy crude oil. Since the allocable supply of Canadian heavy crude oil was greater than the number of rights already calculated, the remaining additional rights were issued to second priority refineries nominating for heavy crude oil on a pro rata basis with respect to their base period volumes of Canadian light and heavy crude oil pursuant to § 214.31(a)(3)(v). No rights were issued under § 214.31(a)(3) (ii) or (iv) because all nominations for first priority refineries were satisfied under § 214.31(a)(3)(i).

The issuance of Canadian heavy crude oil rights, expressed in barrels/day, for August 1980 to refiners and other firms nominating for heavy crude oil for the July–September allocation period is revised as follows:

	Refiner/refinery	Base period volumes [1] Canadian total	Base period volumes [1] Canadian heavy crude	Nomination	Allocation
Priority:					
II	Ashland—Buffalo, NY	36,752	4,719	2,800	2,800
II	Ashland—Findley, OH	2,198	2,165	1,300	1,300
I	Ashland—St. Paul Park, MN	44,707	4,803	7,000	[2] 1,926
I	Koch—Pine Bend, MN	74,383	68,692	95,000	[2] 27,540
II	Laketon—Laketon, IN	141	131	200	[2] 0
II	Mobil—Buffalo, NY	24,995	0	6,036	1,410
II	Mobil—Ferndale, WA	45,444	0	10,975	2,563
II	Mobil—Joliet, IL	14,606	12,474	12,989	12,594
I	Murphy—Superior, WI	25,625	5,372	6,000	6,000
II	Union—Lemont, IL	11,711	0	20,000	660
	Total Priority I				35,466
	Total Priority II				21,327
	Total I and II				56,793

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis. For the base period volumes of all priority refineries, see Allocation Notice issued December 29, 1979 (45 FR 1664, January 8, 1980).

[2] Nomination limited to this volume for August 1980 only. See preceding discussion in text.

Please Note Change of Address: All reports and applications made under this notice should be addressed to: Canadian Crude Oil Allocation Program, 2000 M Street NW., Room 6318, Washington, D.C. 20461.

This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before September 18, 1980.

Issued in Washington, D.C., on August 11 1980.

Doris J. Dewton,

Assistant Administrator Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-25114 Filed 8-18-80; 8:45 am]

BILLING Code 6450-01-M

[Docket No. ERA-FC-80-018]; (OFC Case No. 55118-1648-20-12)

General Electric Co.; Acceptance of Petition for Exemption Regarding the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemption Pursuant to the Interim Rule Implementing the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On April 16, 1980, The General Electric Company (GE) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*), which prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBIs. The basis for the exemption is the lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum as a primary energy source in the unit for which the exemption is requested.

The MFBI for which the petition is filed is a new package boiler (identified as Unit No. 20) to be installed at GE's Central Powerhouse Building Number 31 located at Pittsfield, Massachusetts. The unit has a design heat input rate of 159 million Btu's per hour and will be capable of burning either No. 6 fuel oil, natural gas, or vapor phase oil providing 150,000 pounds of steam per hour at 200 psig. Under § 505.22 of the Interim Rule implementing FUA (Interim Rule) GE has requested a permanent exemption for this unit due to the lack of a supply of coal, wood, electricity, on-site gasification products, and several fuel mixture combinations at a cost which does not substantially exceed the cost of using imported oil.

Section 202(a) of FUA imposes statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new MFBIs which consist of a boiler. ERA's decision in this matter will determine whether GE will be granted a permanent exemption to use natural gas and/or petroleum as the primary energy source for unit No. 20.

ERA determined that the petition is complete in accordance with § 501.3(c) of the Interim Rule, and on May 9, 1980, notified GE of acceptance of its petition for filing.

On June 6, 1980, ERA published its Final Rule on Criteria for Petitions for Exemptions from the Prohibitions of the Act for New Facilities (45 FR 38302), which revoked, upon publication, §§ 503.5 and 505.5 of the Interim Rule (10 CFR 503.5 and 505.5), which prescribed the cost calculation methodology that was to be used in connection with certain provisions of FUA. By Notice of Proposed Rulemaking (NOPR) published in the **Federal Register** on June 23, 1980 (45 FR 42190), ERA proposed a new cost calculation methodology for use with such provisions, including the § 505.22 exemption for lack of an alternate fuel

supply at a cost which does not substantially exceed the cost of using imported petroleum, and called for public comment. A Final Rule on the cost calculation methodology is anticipated to be issued as 10 CFR 503.6 shortly after the close of the public comment period on August 20, 1980, to take effect 60 days after **Federal Register** publication. Accordingly, at this time there is no effective methodology for performing the cost calculation required by § 505.22. Nevertheless, as this petition was filed with ERA prior to the revocation of Interim Rule § 505.5, GE was given the option, as provided in the NOPR (45 FR 42190) of having ERA (1) analyze the petition using the NOPR as quidance or (2) hold the petitionin abeyance pending finalization of the cost calculation methodology. On July 31, 1980, GE requested that its petition be processed as expeditiously as possible using the NOPR as guidance. ERA is proceeding with its analysis accordingly. However, ERA will take no final administrative action with respect to the petition until it adopts a final rule for cost calculation methodology.

Although ERA has found GE's petition acceptable for filing, ERA retains the right to request additional relevant information from GE at any time during the pendency of these proceedings where circumstances may so require.

A review of the petition is provided in the Supplementary Information section below.

As provided for in sections 701(c) and (d) of FUA and §§ 501.31 and 501.33 of the Interim Rule, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before October 3, 1980. A request for public hearing must also be made on or before October 3, 1980.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW, Washington, DC 20461.

Docket No. ERA–FC–80–018 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653–4226.

Doug Mitchell, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

Anthony M. Vaitekunas, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3207, Washington, D.C. 20461, Phone (202) 653–4237.

William L. Webb, Office of Public Information, Economic Regulatory Administration, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, Phone (202) 653–4055.

SUPPLEMENTARY INFORMATION: ERA published its Interim Rule implementing the provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act)(42 U.S.C. 8301 *et seq.*) in the **Federal Register** on May 17, 1979 (44 FR 28950). The Act prohibits the use of natural gas and petroleum as a primary energy source in certain new units unless an exemption for such use has been granted by ERA.

On June 6, 1980, ERA published in the **Federal Register** its Final Rule on Criteria for Petitions for Exemption from the Prohibitions of the Act for New Facilities (45 FR 38,302). The Final Rule revoked Interim Rule sections pertaining to the cost calculation methodology (10 CFR 503.5 and 505.5), effective June 6, 1980. The cost calculation methodology must be used in connection with those provisions of FUA that require a determination of whether the cost of using an alternate fuel as a primary energy source substantially exceeds the cost of using imported petroleum as a primate energy source. A Notice of Proposed Rulemaking applicable to the cost calculation methodology (NOPR) was issued by ERA on June 13, 1980, and was published in the **Federal Register** on June 23, 1980 (45 FR 42190). ERA will issue a final rule on the cost calculation methodology shortly after the close of the public comment period on August 20, 1980, which will become effective 60 days following **Federal Register** publication. ERA cannot take final administrative action with respect to a petition which requires the use of a cost calculation until a final rule has become effective.

The new MFBI for which the permanent exemption based upon the lack of an alternate fuel supply at a cost that does not substantially exceed the cost of using imported petroleum as requested is a package boiler with a design heat input rate of 159 million Btu's per hour, a steam generating capacity of 150,000 pounds per hour, and is capable of burning No. 6 fuel oil, natural gas, or vapor phase oil, which is a waste product from the transformer manufacturing process conducted at the plant. GE states that the new unit will replace three existing, less efficient, older, oil-fired units, and will be used to provide steam for normal plant needs.

GE filed its petition for exemption under § 505.22 of the Interim Rule. On August 5, 1980, § 505.22 was superseded by § 503.32 of the Final Rule. To qualify for this exemption under § 503.32 of the Final Rule, the petitioner must demonstrate to the satisfaction of ERA that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit; and

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in § 503.6 (Cost Calculation—NOPR, 45 FR 42199).

In addressing the eligibility requirements for this exemption GE states that it has analyzed each of the alternate fuels suggested by ERA during the discussions prior to submission of the petition. The fuel alternatives GE considered were coal, wood, electricity, low or medium Btu gas generated through on-site gasification, stoker fired wood with an oil or gas overfire mixture, and a coal-oil slurry.

GE performed the cost calculations in accordance with the Interim Rule and determined that for each of the alternate fuels and mixtures considered, the 1.3 cost ratio specified in the Interim Rule was exceeded. On that basis, GE contends that it qualifies for a permanent exemption from the prohibitions of Title II of FUA.

ERA hereby gives notice that GE's petition for a permanent exemption has been accepted for filing. As the petition was filed with ERA prior to the revocation of Interim Rule § 505.5, GE was given the option provided in the NOPR (45 FR 42190) of having ERA (1) analyze the petition using the NOPR as guidance or (2) hold the petition in abeyance pending finalization of the cost calculation methodology. (The proposed rule will implement the cost calculation provisions of FUA, including the provision applicable to § 503.32 of the Final Rule for New Facilities.) In accordance with GE's request of July 31, 1980, that the petition be processed as expeditiously as possible using the NOPR as guidance, ERA is proceeding with its analysis. ERA will not, however, take any final action on this exemption request until the final rule on the cost calculation methodology (§ 503.6) is promulgated and becomes effective.

Although ERA has found the GE petition acceptable for filing, ERA retains the right to request additional relevant information from GE at any time during the pendency of these proceedings where circumstances may so require.

As set forth in § 501.3(d) of the Final Rule, the acceptance of the petition by ERA does not constitute a determination that GE is entitled to the exemption requested.

The public file containing documents on these proceedings and supporting materials is available for inspection upon request at: Economic Regulatory Administration, Room B–110, 2000 M Street, NW, Washington, DC, Monday–Friday, 8:00 am–4:30 pm.

Issued in Washington, DC, on August 11, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–25115 Filed 8–18–80; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Cases Filed; Week of July 25 through August 1, 1980

During the week of July 25 through August 1, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

August 12, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 25 through Aug. 1, 1980]

Date	Name and location of applicant	Case No.	Type of submission
July 25, 1980	Chevron U.S.A. Inc., San Francisco, California	BEJ–0109, BED–0109.	Motions for Protective Order and Discovery. If Granted: Chevron U.S.A. Inc., would enter into a Protective order with Zitro Energy Consultants, Inc., regarding the release of proprietary information to Chevron in connection with Zitro Energy's Application for Exception (Case No. DEE–2884). Discovery would be granted to Chevron in connection with Zitro Energy's Application for Exception.
July 25, 1980	Commonwealth Oil Refining Co., Inc., San Antonio, Texas.	BEE–1308	Exception from the Entitlements Program. If Granted: Commonwealth Oil Refining Co., Inc., would receive an exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations with respect to Alaskan North Slope crude oil, prospectively and on a retroactive basis for the months of May and June 1980.
July 25, 1980	Conoco, Inc., Washington, D.C	BED–0069, BEH–0069.	Motions for Discovery and Evidentiary Hearings. If Granted: Discovery would be granted to Conoco, Inc., and an Evidentiary Hearing would be convened in connection with the Statements of Objections submitted in response to the December 21, 1979, Proposed Decision and Order (Case No. DEE–5748) issued to Union Oil Company of California.
July 25, 1980	Shell Oil Company, Houston, Texas	BEE–1307	Price Exception (Section 212.73). If Granted: Shell Oil Company would be permitted to sell at stripper well prices the crude oil produced from the South Wasson (Clearfork) unit located in Yoakum County, Texas.
July 25, 1980	Amerada Hess Corporation, Washington, D.C.	BEE–1310	Price Exception. If Granted: Amerada Hess Corporation would receive an exception from the provisions of 10 CFR Part 212, Subpart E, which would permit the firm to pass through in the prices it charges for regulated products sold in the State of Connecticut the full amount of the increased costs resulting from the recently enacted Connecticut gross receipts tax.
July 28, 1980	Atlantic Richfield Company, Los Angeles, California	BEE–1311	Price Exception. If Granted: Atlantic Richfield Company would receive an exception from the provisions of 10 CFR Part 212, Subpart E, which would permit the firm to pass through in the prices it charges for regulated products sold in the State of New York the full amount of the increased costs resulting from the recently enacted New York gross receipts tax.
July 28, 1980	Crown Central Petroleum, Baltimore, Maryland	BES–0087, BST–0087.	Requests for Stay and Temporary Stay. If Granted: Crown Central Petroleum would receive a stay and a temporary stay of the provisions of 10 CFR 211.9, pending a final determination on its Application for Exception (Case No. DEE–7756).
July 28, 1980	Dow Chemical U.S.A., Washington, D.C	BEJ–0110	Motion for Protective Order. If Granted: Dow Chemical U.S.A., would enter into a Protective Order with Marathon Oil Company regarding the exchange of proprietary information between the two firms in connection with Dow Chemical's Application for Exception (Case No. BEE–0285).
July 28, 1980	Laketon Asphalt Refining, Evansville, Indiana	BEE–1312	Exception from the Entitlements Program. If granted: Laketon Asphalt Refining would receive an exception from the provisions of 10 CFR 211.67, with respect to its entitlements sales transactions with Sector Refining, Inc.
July 28, 1980	Publicker Industries, Inc., Washington, D.C	BEA–0435	Appeal of Entitlements Notice. If granted: The February 1979 Entitlements Notice would be modified with respect to Publicker Industries, Inc.'s entitlements purchase obligations.
July 28, 1980	Publicker Industries, Inc., Washington, D.C	BSG–0030	Request for Special Redress. If granted: Publicker Industries, Inc., would be issued entitlements in order to reduce the firm's entitlements purchase obligations published in the February 1979 Entitlements Notice.
July 28, 1980	Richardson Ayres, Jobber Inc., Washington, D.C	BRD–1241	Motion for Discovery. If granted: Discovery would be granted to Richardson Ayres, Jobber Inc., in connection with the Statement of Objections submitted by the firm in response to the May 14, 1980, Proposed Remedial Order (Case No. BRO–1241), issued to Richardson Ayres by the Economic Regulatory Administration.
July 28, 1980	Shell Oil Company, Houston, Texas	BEE–1309	Price Exception. If granted: Shell Oil Company would receive an exception from the provisions of 10 CFR Part 212, Subpart E, which would permit the firm to pass through in the prices it charges for regulated products sold in the State of Connecticut the full amount of the increased costs resulting from the recently enacted Connecticut gross receipts tax.
July 29, 1980	Exxon Company, U.S.A., Washington, D.C	BSG–0031	Request for Special Redress. If granted: The Director of the Division of Freedom of Information and Privacy Act Activities would release certain information to Exxon Company, U.S.A., thereby complying with a May 23, 1979, Decision and Order (Case No. DFA–0378).

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of July 25 through Aug. 1, 1980]

Date	Name and location of applicant	Case No.	Type of submission
July 29, 1980	Federation of American Scientists, Washington, D.C.	BFA-0436	Appeal of Information Request Denial. If granted: The Federation of American Scientists would receive access to a document entitled "National Security and the Comprehensive Test Ban Treaty—UCRL—52911."
July 29, 1980	Golden Eagle Refining, Washington, D.C	BEE-1313	Exception from the Entitlements Program. If granted: Golden Eagle Refining would receive an exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations.
July 29, 1980	Orloski's Service Stations, Inc., Wilkes-Barre, Pennsylvania.	BEA-0437	Appeal of Assignment Order. If granted: The July 14, 1980, Assignment Order issued to Orloski's Service Stations, Inc., by the Economic Regulatory Administration, Region III, would be modified to increase the base period volume of motor gasoline assigned to Orloski's.
July 29, 1980	Winston Refining Company, Washington, D.C	BEJ-0112 through BEJ-0115.	Motions for Protective Orders. If granted: Winston Refining Company would enter into Protective Orders with Permian Corporation, Mobil Oil Corporation, Gulf Oil Corporation, and Cities Service Company, regarding the exchange of proprietary information in connection with the firm's Application for Temporary Exception (Case No. BEL-1284).
July 30, 1980	American Petrofina, Inc., Washington, D.C	BEE-1316	Exception from the Entitlements Program. If granted: American Petrofina, Inc., would receive an exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations with respect to Alaskan North Slope crude oil retroactively for the month of April 1980.
July 30, 1980	Atlantic Richfield Company, Los Angeles, California	BEJ-0111	Motion for Protective Order. If granted: Atlantic Richfield Company would enter into a Protective Order with Chevron U.S.A. Inc., regarding the exchange of proprietary information between the two firms in connection with Arco's Application for Exception (Case No. BEE-1294).
July 30, 1980	Standard Oil Company of Indiana (Amoco), Chicago, Illinois.	BEE-1314	Price Exception. If granted: Standard Oil Company of Indiana (Amoco), would receive an exception from the provisions of 10 CFR Part 212, Subpart E, which would permit the firm to pass through in the prices it charges for regulated products sold in the State of Connecticut the full amount of the increased costs resulting from the recently enacted Connecticut gross receipts tax.
July 30, 1980	Winston Refining Company, Washington, D.C	BEJ-0116	Motion for Protective Order. If granted: Winston Refining Co. would enter into a Protective Order with Standard Oil Company of Indiana (Amoco) regarding the exchange of proprietary Application for Temporary Exception (Case No. BEL-1284).
July 31, 1980	Dow Chemical U.S.A., Washington, D.C	BEJ-0118	Motion for Protective Order. If granted: Dow Chemical U.S.A. would enter into a Protective Order with Cities Service Company regarding the exchange of proprietary information between the two firms in connection with Dow Chemical's Application for Exception (Case No. BEE-0285).
July 31, 1980	Fannon Petroleum Service, Inc., Alexandria, Virginia	BXE-1318	Extension of relief granted in *Fannon Petroleum Service, Inc.*, 4 DOE ¶ 81,133 (September 17, 1979). If granted: Fannon Petroleum Services, Inc., would continue to receive an exception from the provisions of 10 CFR Part 211, which permits the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
July 31, 1980	Gulf Oil Corporation, Houston, Texas	BED-0070	Motion for Discovery. If granted: Discovery would be granted to Gulf Oil Corporation in connection with the Statement of Objections submitted by the firm in response to the May 19, 1980, Proposed Decision and Order (Case No. DXE-5784) issued to Allied Oil Company.
July 31, 1980	Little America Refining Co., Inc., Washington, D.C	BST-0085	Request for Temporary Stay. If granted: Little America Refining Co., Inc., would receive a temporary stay of the provisions of 10 CFR 211.67, pending a final determination on its Application for Temporary Exception (Case No. BEL-0085) and Application for Stay (Case No. BES-0085).
July 31, 1980	Southland Oil Company/VGS Corporation, Jackson, Mississippi.	BEL-0060	Temporary Exception from the Entitlements Program. If granted: Southland Oil Company/VGS Corporation would receive a temporary exception from the provisions of 10 CFR 211.67, which would modify its entitlements purchase obligations for the year 1979.
July 31, 1980	Universal Utilities Inc., Hicksville, New York	BRR-0088, BST-0088, BRT-0088.	Request for Modification; Requests for Stay and Temporary Stay. If granted: The January 30, 1978, Consent Order issued to Universal Utilities, Inc., by the Economic Regulatory Administration would be modified. Universal Utilities would receive a stay and a temporary stay of the Consent Order pending a final determination on its Request for Modification

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

[Week of 7/25/80 Through 8/1/80]

Name	Case No. and date	State
Echo Bay Resort	BEE-1315, 7/30/80	DC.
Hull Grocery, Inc	BEN-0049, 7/29/80	GA.
J. A. Nere Company, Inc	BEN-0048, 7/29/80	VA.
Ted's Service Center	BEE-1319, 7/31/80	MA.

Notices of Objection Received

[Week of 7/25/80 Through 8/1/80]

Date	Name and location of applicant	Case No.
7/25/80	Belvidere Car Wash, Lexington, MA.	DEE-6951
7/25/80	DAP, Inc., Springfield, MO	BEE-1182
7/25/80	Hess Store, Monkton, MD	BEO-1282
7/25/80	Molo Oil Company, Dubuque, IA	BEE-0349
7/28/80	Fireline Petroleum, Washington, DC.	BEE-0650
7/28/80	Region Oil Co., Houston, TX	BEE-0405
7/28/80	10-10 Truck Stop, Rialto, CA	DEE-5304
7/29/80	City of Long Beach, CA, Long Beach, CA.	BXE-1149
7/29/80	Energy Cooperation, Inc., Phoenix, OR.	BEE-0952
7/29/80	Industrial Fuel and Asphalt of Indiana, Inc., Hammond, IN.	BEE-0962

Notices of Objection Received—Continued

[Week of 7/25/80 Through 8/1/80]

Date	Name and location of applicant	Case No.
7/30/80	Atlantic Richfield Co., Los Angeles, CA.	BEE-0696

[FR Doc. 80-25094 Filed 8-18-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of June 30 Through July 4, 1980

During the week of June 30 through July 4, 1980, the decisions and orders

summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Foster Associates, Inc., Washington, D.C., freedom of information, BFA–0358

Foster Associates, Inc. filed an Appeal from a partial denial by the Assistant Administrator of the Office of Fuels Conversion of the Economic Regulatory Administration of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the release of the information initially withheld under exemption (b)(4) was not likely to cause the firms involved in the Major Fuel Burning Installation Coal Conversion Report substantial competitive harm and should therefore be released to the public.

Mark F. Grady, Iowa City, Iowa, freedom of information BFA–0359

Professor Mark F. Grady filed an Appeal from a denial by the Assistant Administrator of Regulations and Emergency Planning of the Economic Regulatory Administration of a request for information that Professor Grady had submitted under the Freedom of Information Act. The DOE found that certain of the documents initially withheld under Exemption 5 should be released to the public in whole or in part. In addition, the DOE remanded the request for a further search for responsive documents.

Petroleum International Associates, Inc., Somerville, N.J., middle distillates, DRA–0212.

Petroleum International Associates, Inc. (PIA) filed an Appeal of an Ancillary Order which DOE Region II issued to the firm on August 10, 1978 in connection with a Letter of Compliance and a Consent Order which were entered into between the FEA and two of PIA's suppliers of middle distillates. In the Ancillary Order, Region II directed PIA to pass through to its customers the refunds which PIA had received as restitution for prior overcharges. In its Appeal, PIA raised numerous objections concerning the legality, timeliness and factual basis of the Ancillary Order. The firm also contended that it was financially incapable of complying with the Ancillary Order and that the terms of the Order were simplistic, vague and contradictory. In considering PIA's Objections, the DOE found that Region II possessed the requisite authority to issue an Ancillary Order to PIA concerning the refunds it had received and that the issuance of such had been timely. The DOE also found that (i) the Ancillary Order contained a sufficient finding that PIA should be required to pass through the refunds received and (ii) the mere passage of time between PIA's receipt of the refunds and the issuance of the Ancillary Order did not shift the burden to the DOE to show that the firm had not already passed through the refunds to its customers. The DOE rejected PIA's contention that its technical compliance with the FEA regulations in its prior handling of the refunds undermined the validity of the refund provisions set forth in the Ancillary Order. It further found that the firm had not established in a convincing manner that it was without sufficient assets to comply with the Ancillary Order. Finally, the DOE held that the Ancillary Order's refund provisions were a valid exercise of the agency's discretionary authority and that they provided sufficiently clear and unambiguous instructions to allow the firm to divide the refund monies among its known purchasers of affected products. The DOE found, however, that the Ancillary Order should be modified to specify how refunds attributable to unidentified customers should be distributed and to allow PIA to deduct reasonable administrative expenses not to exceed $5,000 from the refund monies it has already received from its suppliers. On the basis of these findings, the DOE affirmed the validity of the August 10 Ancillary Order as modified by this Decision and Order.

Requests for Exception

Acme Amoco, Acme, Mich., BEO–0077, motor gasoline

Acme Amoco filed an Application for Exception from the provisions of 10 C.F.R. Part 211 which, if granted, would result in an increase in the firm's base period allocation of motor gasoline. In a Proposed Decision and Order issued to the firm, the DOE reached the tentative determination that Acme's request for additional gasoline should be denied. The DOE found that, contrary to the firm's assertions, motorists in Acme's marketing area were not experiencing gasoline shortage of a unique nature. The DOE also determined that Acme could meet its monthly operating expenses and earn a reasonable profit in the absence of exception relief. In considering Acme's Objections to the Proposed Order, the DOE affirmed its initial conclusion that motorists in Acme's marketing area were not experiencing significantly greater difficulty in obtaining gasoline than those in other parts of the country. The DOE also noted that Acme does not require exception relief in order to operate profitably and that, although the firm had significantly altered its mode of operation, it had ample opportunity to realize the benefits from that change prior to the implementation of the new base period for gasoline allocation. Accordingly, the DOE denied Acme's exception request.

Cunningham Oil Co., Inc., Columbus, Ga., DEE–3490, motor gasoline

Cunningham Oil Company, Inc. filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the firm was not experiencing a serious financial hardship or gross inequity. Accordingly, exception relief was denied.

Dock's Chevron Station, Pascagoula, Miss., BEO–0423, motor gasoline

Dock's Chevron Station filed an Application for Exception from the provisions of 10 C.F.R. Part 211 which, if granted, would result in an increase in the firm's base period allocation of motor gasoline. In a proposed Decision and Order issued to the firm, the DOE reached the tentative determination that Dock's request should be denied. This determination was based upon an analysis of the firm's financial and operating posture which indicated that Dock's could meet its monthly operating expenses and earn a reasonable profit in the absence of exception relief. However, an evaluation of Dock's Objections to the Proposed Order revealed that, contrary to the conclusion reached in the Proposed Order, Dock's current gasoline allocation was not sufficient to enable the firm to operate the station profitably. The DOE also noted that Dock's made significant improvements at the station and was experiencing increased demand for gasoline as a result of its decision to operate the outlet on a full-time basis; a major alteration in the ongoing business practice of the firm. In this regard, the DOE found that the previous operator of the outlet was seriously ill during the updated base period and was therefore unable to operate on a full-time basis. This situation resulted in gasoline sales during the updated base period which were not representative of the outlet's normal level of business activity. Therefore the DOE determined that Dock's exception request should be granted.

Elk Store, Axtell, Tex., BEO–0203 motor gasoline

On May 24, 1979, Elk Store filed an Application for Exception from the provisions of 10 C.F.R. Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that Elk Store's allocation should be increased in order to prevent the firm's community from suffering an unfair distribution of burdens as a result of the DOE allocation regulations. In granting relief to the firm the DOE rejected the claim raised by Mobil Oil Corporation, Elk Store's ultimate supplier, that Elk Store should not be granted exception relief in final form since Mobil had not received adequate notice of the exception proceeding.

Ethanol Corp., Los Angeles, Calif., BEE–0119, gasohol

Ethanol Corporation filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an allocation of unleaded gasoline for use in its

gasohol production and marketing program. In considering the request, the DOE found that the firm was not in an advantageous position to further the national objective of increasing the use of gasohol. Futhermore, the DOE determined that Ethanol Corporation had not shown that it was suffering a gross inequity as a result of the DOE regulatory programs.

Farwest Taxicabs, Seattle, Wash., BEO–0508, motor gasoline

Farwest Taxicabs filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to enable the firm to expand its participation in a low cost transportation program for elderly and handicapped citizens and to institute a ride sharing program.

Faulkland Exxon, Wilmington, Del., BEO–0478, motor gasoline

Faulkland Exxon filed an Application for Exception from the provisions of 10 CFR Part 211 which, if granted, would result in an increase in the firm's base period allocation of motor gasoline. In a Proposed Decision and Order issued to the firm, the DOE reached the tentative determination that Faulkland's request should be denied. This determination was based upon the DOE's conclusion that motorists in Faulkland's marketing area were not experiencing significantly greater difficulty in obtaining gasoline than those in other areas of the country. The DOE also concluded that Faulkland could meet its monthly operating expenses and earn a reasonable profit in the absence of exception relief. In considering the firm's Objections to the Proposed Order, the DOE affirmed its conclusion that motorists in Faulkland's market area were not experiencing a disproportionate burden resulting from the nation's gasoline shortage. The DOE also rejected Faulkland's contention that highway construction in its vicinity during the updated base period resulted in a significantly reduced gasoline purchases at the outlet. The DOE noted that gasoline purchasing activity at the outlet failed to increase significantly subsequent to the completion of the construction work. Accordingly, the DOE denied Faulkland's exception request.

Fuller's 66, Salt Lake City, Utah, DEE–2520, retail outlet

Fuller's 66 filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE rejected the assertion that the operation of the current gasoline allocation regulations are causing any financial difficulties which the firm alleges it is experiencing. Accordingly, exception relief was denied.

Gold Oil Co., Belleville, Ill., BEX–0454, motor gasoline

Gold Oil Company filed an Application for Exception in which it requested that it be assigned to a new, lower-priced base period supplier for the period January through June 1980. In considering the Gold request, the DOE determined that the hardship which it found in the previous analysis of Gold's competitive situation in *Gold Oil Co.*, Case Nos. DEE–4344 and DEN–4344 (October 25, 1979) (unpublished Decision) was continuing. The DOE therefore concluded that exception relief should be granted and directed the Economic Regulatory Administration to select a new supplier for Gold for the period January through June 1980.

Justice Exxon, Columbus, Ohio, BEO–0247, motor gasoline

Justice Exxon filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was adversely affected to a significant degree as a result of the DOE motor gasoline allocation regulations. Accordingly, exception relief was denied.

Kane's Furniture Corp., St. Petersburg, Fla., BEO–0157, motor gasoline

Kane's Furniture Corporation, a bulk purchaser of motor gasoline, requested an exception from the provisions of 10 C.F.R. Part 211 to permit it to receive an increase in its base period allocation of gasoline. The basis of the request was an increase in the number of vehicles in the Kane's delivery and service fleet. In considering the request, the DOE found that Kane's had failed to demonstrate that obtaining a portion of its motor gasoline supplies from retail sales outlets would cause the firm to experience a gross inequity, serious hardship, or unfair distribution of burdens. Accordingly, exception relief was denied.

Lyte and Co., Los Angeles, Calif., BXE–0727, crude oil

Lyte and Company filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. Exception relief was granted to permit Lyte and Company to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Skeeter Slaughter Lease.

Marine Oil Co., Fulton, Ky.; Exxon Oil Co., U.S.A., Washington, D.C., BEE–0396, BES–0212, BEA–0212, motor gasoline

Exxon Oil Company, U.S.A. filed an Application for Stay and Appeal of an assignment order issued to the firm by the Region IV Office of Petroleum Operations of the DOE. The assignment order was issued pursuant to a Proposed Decision and Order issued to Marine Oil Company by the Office of Hearings and Appeals and directed Exxon to supply Marine Oil Company with specified volumes of motor gasoline for the period January through June 1980. Exxon also filed a Statement of Objections to the issuance of the Proposed Decision and Order in final form. In considering Exxon's submissions, the Office of Hearings and Appeals determined that the relief granted to Marine Oil Company was necessary to relieve the firm of a serious financial hardship which it was experiencing as a result of its supplier's uncompetitively high wholesale prices for motor gasoline. The Office of Hearings and Appeals further determined that Exxon had been given a full opportunity to comment on the merits of both the Proposed Decision and Order and the assignment order.

In conclusion, the Office of Hearings and Appeals found that the assignment orders had been properly issued. Accordingly, the Office of Hearings and Appeals ordered that Exxon's Statement of Objections be denied and the Proposed Decision and Order issued to Marine Oil Company be issued in final form. In addition, the Office of Hearings and Appeals further ordered that Exxon's Appeal be denied and the firm's Application for Stay be dismissed.

Sun Production Co., Inc., Dallas, Tex., DEE–1483, crude oil

On August 11, 1978, the Sun Production Company, Inc. (Sun) filed an Application for Exception from amendments to 10 C.F.R. § 211.67 which the Economic Regulatory Administration (ERA) of the Department of Energy issued in proposed form on November 1, 1978. These regulatory amendments would expand the scope of the Entitlements Program to include certain non-refining uses of crude oil. In considering the request, the DOE found that the market for the firm's crude oil produced from its Felda Field, located in South Florida, was not affected by the proposed regulatory amendments, and there was no evidence presented that these amendments would be enacted in the foreseeable future. Accordingly the DOE determined that the Sun Application for Exception should be dismissed without prejudice to a refiling at a later date.

Village Marathon, Arlington Heights, Ill., BEO–0386, motor gasoline

Village Marathon filed an Application for Exception from the provisions of 10 C.F.R. § 221.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the residents of the market area served by the firm were not experiencing a gross inequity or an unfair distribution of burdens. Accordingly, exception relief was denied.

Weatherite, Los Angeles, Calif., DEE–6511, motor gasoline

Weatherite filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm failed to demonstrate that it would suffer a gross inequity, unfair distribution of burdens or serious hardship in the absence of exception relief. Accordingly, exception relief was denied.

Request for Temporary Exception

Thomas P. Reidy, Inc., Washington, D.C., BEL–0054 motor gasoline

Thomas P. Reidy, Inc. filed an Application for Temporary Exception from the requirement that it irrevocably elect by June 30, 1980, one of two alternative regulatory mechanisms for determining its maximum allowable selling price for motor gasoline. (10 C.F.R. § 212.93(a)(5)). In considering the Application, the DOE determined that Reidy had failed to demonstrate that it will be irreparably injured if it was required to comply with the election provision or that

there was a likelihood that it will succeed on the merits of its exception request. The Reidy temporary exception request was therefore denied.

Request for Stay

Young Refining Corp., Douglasville, Ga., BES–0082, crude oil

Young Refining Corporation filed an Application for Stay from the requirement that it purchase entitlements during the month of June 1980 to account for its crude oil receipts and runs to stills during the month of April 1980 pursuant to the provisions of 10 C.F.R. § 211.67. In considering the request, the DOE noted that a Proposed Decision and Order had been issued to the firm on June 30, 1980, which tentatively determined that Young should be relieved of all of its entitlement purchase obligation for a period of time which included June 1980. In addition, the DOE determined that the firm did not possess the financial resources to purchase its entire entitlements purchase obligation during June 1980. Young's stay request was therefore granted.

Request for Temporary Stay

Oasis Petroleum Corp.; Trans-Texas Petroleum; BLT, Inc.; Research Fuels, Inc., Culver City, Calif., DST–0042, DEE–2942, DES–2942, DST–2942, DEE–3430, DES–3430, DST–3430, DSG–0071, motor gasoline

A number of petitions for administrative relief were filed in connection with a controversy between Oasis Petroleum Corporation and Research Fuels, Inc., which arose primarily from a series of October 1978 agreements in which RFI transferred 84 retail motor gasoline outlets to Oasis and assigned to Oasis its right to receive motor gasoline from certain suppliers. The DOE determined that no action should be taken on these petitions since the DOE had already addressed the issues raised in the submissions in a tentative decision issued in a separate special redress proceeding and since the United States District Court for the Northern District of Texas had in any event enjoined the DOE from taking action on certain of these issues. Accordingly, the petitions were dismissed without prejudice.

Supplemental Orders

Caribou Four Corners, Inc., Afton, Wyo., BEX–0065, crude oil

On June 2, 1980, the DOE issued a Decision and Order to Caribou Four Corner's, Inc., staying that firm's obligation to purchase entitlements as required by 10 C.F.R. § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 2, 1980.

Genico Distributors, Inc., Austin, Tex., BEX–0074, crude oil

The DOE issued a Supplemental Order in order to make a technical correction to its Decision and Order in *Genico Distributors, Inc.*, 5 DOE ¶ ———, Case Nos. BSG–0024 and BST–0024 (June 24, 1980).

Highway Oil, Inc., Topeka, Kans., BEX–0052, Gasohol

On April 25, 1980, the DOE issued an Order requiring Highway Oil, Inc. to show cause why the DOE should not revoke previously granted exception relief which increased the firm's base period allocation in the amount of 300,000 gallons of unleaded gasoline per month in connection with Highway's gasohol blending and marketing operations. *Highway Oil, Inc.*, 5 DOE ¶ ——— BEX–0049 (April 25, 1980). In considering the material submitted by Highway pursuant to the April 25 Order, the DOE concluded that the exception relief should be rescinded since Highway's current gasohol operations are substantially different from the gasohol operations which Highway had projected in its exception application and which the DOE had accepted as the basis for the approval of exception relief.

Plateau, Inc., Washington, D.C., BEX–0070, crude oil

On June 30, 1980, the DOE issued a Decision and Order to Plateau, Inc. staying that firm's obligation to purchase entitlements as required by 10 C.F.R. § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 30, 1980.

Sage Creek Refining Co., Cowley, Wyo., BEX–0073, crude oil

On June 30, 1980, the DOE issued a Decision and Order to Sage Creek Refining Company staying that firm's obligation to purchase entitlements as required by 10 C.F.R. § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 30, 1980.

Southland Oil Co., Jackson, Miss., BEX–0066, crude oil

On June 2, 1980, the DOE issued a Decision and Order to Southland Oil Company staying the firm's obligation to purchase entitlements as required by 10 CFR § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 2, 1980.

Thriftway Co., Washington, D.C., BEX–0075, crude oil

On June 30, 1980, the DOE issued a Decision and Order to Thriftway Company staying that firm's obligation to purchase entitlements as required by 10 C.F.R. § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 30, 1980.

Warrior Asphalt Company of Alabama, Tuscaloosa, Ala., BEX–0067, crude oil

On June 2, 1980, the DOE issued a Decision and Order to Warrior Asphalt Company of Alabama staying that firm's obligation to purchase entitlements as required by 10 CFR § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 2, 1980.

Young Refining Corp., Washington, D.C., BEX–0068, crude oil

On June 2, 1980, the DOE issued a Decision and Order to Young Refining Corporation staying that firm's obligation to purchase entitlements as required by 10 CFR § 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on June 2, 1980.

Remedial Orders

In the following cases involving Proposed Remedial Orders and/or Interim Remedial Orders for Immediate Compliance, no Statements of Objections were filed. The DOE therefore issued the orders in final form.

Company Name, Case No. and Location

Bert Jones, BRW–0055, Stillwell, OK.
Herbert Menard d.b.a. Berwick Exxon, BRW–0053, Berwick, LA.
James E. Porter, BRW–0054, Oklahoma City, OK.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No., and Location

O.K. Petroleum Products Corp., DEN–6685, New York, NY.
R&W Motor Sales, BEN–0040, Taunton, MA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be granted.

Company Name, Case No., and Location

Energy Unlimited, BEO–0572, Elm Grove, WI.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Ernie's General Store, DEE–3763, Stockton, CA.
Koenig Texaco, BEO–0498, Salida, CO.
Leo's One Stop Mart, DEE–4764, Chehalis, WA.
Los Osos Petroleum Products, DEE–6376, Los Osos, CA.
Mount Vernon Sunoco, DEE–5206, Alexandria, VA.
Riverside Shell, DEO–0335, N. Riverside, IL.
Petrolics, Inc., BEE–0266, Austin, TX.
Riggs Gas & Grocery, BEO–0058, Scurry, TX.
San-Ann Service, Inc., DXE–5354, Washington, DC.
Savoley & Shepard Sunoco Station, DEE–5352, Lowell, MA.
The W. Gordon Smith Co., DEE–6658, Eden Prairie, MN.
Wedge Service Station, Inc., BEO–1052, Elmsford, NY.
Westwood Tune-up Service, BEO–0051, Los Angeles, CA.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Bartco Associates, DEE–5091.
Clarence Berner, BEE–0685.
Gas Appliance Mfgs. Association, BXE–1220.
Matthews Oil Co., Inc., DEE–7026.
O. K. Petroleum Products Corporation, DES–6685; DEST–6685.
Oil City Petroleum Company, Inc., BEE–1199.
Two J's Auto Clinic, DEE–5066.
Vickers Petroleum Corporation, DSG–0060.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Thomas L. Wieker,

Deputy Director, Office of Hearings and Appeals.

August 12, 1980.

[FR Doc. 80–25095 Filed 8–18–80; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of July 7 through July 11, 1980

During the week of July 7 through July 11, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Collier, Shannon, Rill, Edwards & Scott, Washington, D.C., BFA–0367, freedom of information

Collier, Shannon, Rill, Edwards & Scott filed an Appeal from a denial by the Regional Counsel of the Economic Regulatory Administration Region II of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that portions of the requested document which was initially withheld in its entirety under Exemption 5 should be released to the public. Important issues that were considered in the Decision and Order were whether the requested document was protected either by the deliberative process privilege, the attorney-client privilege, or the attorney work-product privilege and therefore exempt from mandatory disclosure under the FOIA pursuant to Exemption 5.

Charles Varon, San Francisco, Calif., BFA–0389, freedom of information

On June 6, 1980, Charles Varon filed an Appeal from a determination that had been issued to him by the Director of the Division of Program Support of the Office of Military Application. In that determination it was stated that no records exist which are responsive to requests for information that the Appellant had submitted pursuant to the Freedom of Information Act. In his Appeal, the Appellant contended that the DOE improperly had failed to identify documents responsive to his requests and had failed to conduct a sufficient research for responsive documents. In considering the Appeal, the DOE fund that the Appellant's requests did not "reasonably describe" the records sought within the meaning of the Act. Therefore the matter was remanded to allow the DOE to offer assistance to the requester pursuant to 10 CFR 1004.4(c)(2).

Remedial Order

Ferguson Oil Co., Oklahoma City, Okla., DRO–0270, DRS–0270, crude oil

Ferguson Oil Company objected to a Proposed Remedial Order on the grounds that the facts and issues raised by the PRO were identical to those involved in pending court cases and that the PRO proceeding should be held in abeyance pending resolution of these cases. Subsequent to the filing of Ferguson's Statement of Objections, court decisions were issued which supported DOE's position on the matters involved in the Ferguson PRO proceeding. The DOE issued the Ferguson PRO in final form and dismissed the Application for Stay.

Requests For Modification and/or Rescission

Doe Office of Procurement Operations, Washington, D.C., BMR–0043, Freedom of Information

The DOE Office of Procurement Operations filed an Application for Modification of *International Biomass Institute*, 5 DOE ¶ 80,135 (1980), which granted in part an Appeal which the Institute had submitted under the Freedom of Information Act. In considering the Application, the Office of Hearings and Appeals found that the Office of Procurement Operations had not met the regulatory requirements of showing "significantly changed circumstances," 10 CFR 205.134(b)(2) and the Application was denied. The material ordered to be released in *International Biomass Institute* was released to the requester.

Office of Enforcement, Washington, D.C., BRR–0064, crude oil

Office of Enforcement filed a Motion for Reconsideration of an Order which the Office of Hearings and Appeals issued in *Shenandoah Oil Corp.*, 5 DOE ¶ 80,105 (1980), requiring the Office of Enforcement to explain the basis for its finding that a certain tract did not qualify for "very large tract" treatment under Ruling 1977–1, 42 FR 3628 (January 19, 1977). In considering the Motion the DOE determined that Enforcement must explain the basis for crucial determinations in Remedial Orders it issues. The Motion for Reconsideration was therefore denied.

Requests for Exception

Airport DX Service, Des Moines, Iowa, BEO–0557, Motor Gasoline

Airport DX Service filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation. In considering the request, the DOE found that the firm had leased and invested in the retail outlet after the updating of the base period and was adversely affected by its own discretionary business decision rather than the regulatory program. Accordingly, exception relief was denied.

Donald E. Batey, Petaluma, Calif., BEO–0798, motor gasoline

Donald E. Batey filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that any operating difficulties which the firm was experiencing were the result of its own discretionary business decisions and were not the result of DOE regulations. Accordingly, exception relief was denied.

The Citizen Tribune, Morristown, Tenn., BEO–0138, motor gasoline

The Citizen Tribune filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its motor gasoline allocation. In considering the request, the DOE found that the updated base period did not represent an anomalous period in the firm's operations and that the allocation regulations were not causing the firm a serious hardship, gross inequity or unfair distribution of burdens. Accordingly, exception relief was denied.

Foregione's Service Station, Mayfield, Pa., DEO–0369, motor gasoline

Forgione's Service Station filed an Application Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request the DOE found that exception relief was necessary to prevent the firm from experiencing a severe financial hardship as a result of its inability to market its gasoline at the maximum lawful profit margin of 16.8 cents per gallon. Accordingly, exception relief was granted.

General Telephone Company of the Northwest, Inc., Everett, Wash., BEO–0573, motor gasoline

General Telephone Company of the Northwest, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its motor gasoline allocation. In considering the request, the DOE found that the allocation regulations were not making it impossible for the applicant to provide service to its customers or causing the applicant any other hardship, inequity or unfair distribution of burdens. Accordingly, exception relief was denied.

Georgia Pacific Corp., Bellingham, Wash., BEE–0759 gasohol

Georgia Pacific Corporation filed an Application for Exception sought an increase in its base period allocation of unleaded gasoline for use in denaturing alcohol. This denatured alcohol is then sold for use in blending gasohol. In considering the request, the DOE found that exception relief was

necessary to insure continued production of alcohol for blending gasohol. Accordingly, exception relief was granted.

Good Chevrolet, Renton, Wash., BEO–0829, motor gasoline

Good Chevrolet filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that its business activities would be significantly adversely affected if exception relief was denied. Accordingly, exception relief was denied.

Han-D-Sac Drive-In Grocery, Bartlett, Tenn., BEO–0267, motor gasoline

Han-D-Sac filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE determined that the firm was not experiencing a gross inequity. Accordingly, the firm's request was denied.

Perfection Products Co., Waynesboro, Ga., BXE–1216; Poeway, Inc., Wisconsin Rapids, Wis., BXE–1217; Louisville Tin & Stove Co., Louisville, Ky., BXE–1218; Williams Furnace Co., Le Maride, Calif., BXE–1219; United States Stove Co., Chattanooga, Tenn., BXE–1221; Martin Industries, Florence, Ala., BXE–1222; Locke Stove Co., Kansas City, Mo., BXE–1223; Readybuilt Products & Co., Baltimore, Md., BXE–1224; Suburban Manufacturing Co., Dayton, Tenn., BXE–1225; test procedures

Perfection Products Co., *et al.*, filed Applications for Extension of Exception relief previously granted in *Perfection Products Co.*, 4 DOE ¶ 81,096 (1979). In their joint submission, the applicants requested that the exception from the provisions of 10 CFR Part 430 which relieved them of the obligation to perform energy efficiency tests on vented gas space heaters with manual and modulating controls and vented oil heaters with vaporizing-type burners be extended beyond July 1, 1980. In considering the request, the DOE found that the circumstances which led to the prior approval of exception relief had not changed and that reimposition of the testing requirements would impose a gross inequity on the applicants. Accordingly, the Applications for Exception were granted.

Ron's Arco Station, Woodbury, N.J. DEO–0337, motor gasoline

Ron's Arco Station filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing an unfair distribution of burdens, gross inequity or serious hardship in the absence of exception relief. Accordingly, exception relief was denied.

T. J.'s Service Station, Collier County, Fla., BEO–0305, motor gasoline

T. J.'s Service Station filed a Statement of Objections to the issuance in final form of a Proposed Decision and Order in which the Southeast Regional Center of the Office of Hearings and Appeals tentatively determined that the firm's request for an increase in its base period allocation of motor gasoline should be denied. In considering the Statement of Objections, the DOE found that although the community around T. J.'s Service Station had experienced a reduction in its base period supplies of motor gasoline as a result of station closings in the area, a local jobber planned to reopen one of the closed stations in the near future and that this latter event would eliminate any reduction in the community's allocation supplies. The DOE also found that community residents and travelers were encountering no current difficulties in obtaining product. Accordingly, exception relief was denied.

V.I.P. Limousine, Inc., Stamford, Conn., BEO–1018, motor gasoline

V.I.P. Limousine, Inc. (VIP), filed an Applicatin for Exception from the provisions of 10 CFR Part 211. In this Application, the firm sought an increased allocation of motor gasoline for use in its "group ride program" (GRP). In its Decision, the DOE indicated what information is necessary in order for it to evaluate the potential level of energy conservation associated with the GRP. In considering the firm's request, however, the DOE found that V.I.P. had failed to demonstrate that its GRP would in fact result in a significant reduction of energy consumption in its operating area. Accordingly, the DOE denied the firm's request.

Van Wert Manufacturing Co., Peckville, Pa., BEE–1051; Yukon Industries, St. Paul, Minn., BEE–1066; Stadler Corp., Carlisle, Mass., BEE–1074; Combo Furnace Co., Grand Rapids, Minn., BEE–1113; Charmaster Products, Inc., Grand Rapids, Minn., BEE–1144; test procedures

Van Wert Manufacturing Company, *et al.* filed Applications for Exceptions from the provisions of 10 CFR Part 430, Appendix N. In their submissions, the applicants requested that they be relieved of the requirement to perform energy efficiency and fuel utilization tests for their multi-fuel furnaces and boilers. In considering the requests, the DOE found that the test procedures applicable to multi-fuel furnaces and boilers yielded inappropriate results and that the applicants would suffer agross inequity in the absence of relief. Accordingly, the exeption applications were granted.

Zenith Oil Co., Minneapolis, Minn., DEE–2556, No. 2 heating oil

Zenith Oil Company filed an Application for Exception in which the firm would be relieved from the obligation to comply with the terms of a Remedial Order issued to it. In considering the firm's request, the DOE determined that Zenith would not experience a serious financial hardship if it were required to make refunds to customers who were overcharged, as required by the Remedial Order.

Request for Stay

Milder Oil Co., Washington, D.C., BES–0079, BST–0007, crude oil

Milder Oil Company filed an Application for Temporary Stay and Stay from the requirement that it make refunds pursuant to a Consent Order agreed to by the firm and DOE Office of Enforcement. In considering the Application, the DOE determined that Milder had presented no persuasive argument that postponement of its refund obligation was necessary to prevent a serious hardship to the firm or to further the public interest. Milder's stay request was therefore denied.

Request for Temporary Stay

Petroleum Delivery Service, Inc., Fort Lauderdale, Fla., BST–0005, motor gasoline

Petroleum Delivery Service, Inc. filed an Application for Temporary Stay of an Interim Order issued to Southern Bell Telephone and Telegraph Company granting Southern Bell's request for a termination of its supplier/purchaser relationship with the applicant. The DOE determined that Petroleum Delivery Service was not experiencing a substantial irreparable injury due to the Interim Order. The DOE also noted that the applicant had not filed a timely response to Southern Bell's Motion for Interim Order and that it is generally inappropriate to grant stay relief when an applicant did not avail itself of the opportunity to contest the Interim Order before it was issued. Accordingly, the Application for Temporary Stay was denied.

Supplemental Order

Marathon Oil Co., Findlay, Ohio, BEX–0077, motor gasoline.

On April 17, 1980 the Office of Hearings and Appeals issued a Decision and Order granting the Marathon Oil Company (Marathon) Appeal of a February 19, 1980 Order issued by the Region IV Economic Regulatory Administration assigning Marathon to supply Publix Oil Company, Inc. with 65,572,475 gallons of motor gasoline per year at Tennessee terminals. In response to an Order issued by the United States District Court for the Eastern District of Tennessee on May 1, 1980 the Office of Hearings and Appeals issued a Supplemental Order staying the April 17 Appeal Decision and temporarily reinstating the February 19 Assignment Order. On July 9, 1980, however, the Court granted summary judgment in favor of the defendants DOE and Marathon, and dissolved the preliminary injunction. The Office of Hearings and Appeals therefore issued this Supplemental Order reinstating the April 17 Decision which rescinded the February 19 Assignment Order.

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company Name, Case No., and Location

Chevron, USA, United Refining Co., BEJ–0095, Washington, DC.

Little America Refining Co., Inc. et al., BEJ–0096; Mobil Oil Corp., BEJ–0097; Texaco, Inc., BEJ–0098; Chevron, USA, BEJ–0099; Cities Service Wyoming Refining Co., BEJ–0100; Washington, DC.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No. and Location

Antonio Vricella, BEN–0289, Somerville, MA.
Angelo & Sons, BEN–0784, Revere, MA.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No. and Location

Bill Johnson's Chevron Service, BEO–0490, Los Angeles, CA.
Black Jack Service Station, BEO–0320, Flourissant, MO.
Country Super Store, BEO–0729, Bogalusa, LA.
Dave's Texaco Station, BEO–1114, Brighton, MA.
Huling's, BEO–0652, Seattle, WA.
Mayo's D–X Service Station, BEO–0615 Dresden, TN.
Miami Beach Texaco, BEO–0746, Washington, DC.
Tyler Texaco Station, DEE–5826, Hollister, CA.
Zionsville Standard Station, BEO–0251;
Old Orchard Car Wash, BEO–0436;
Checko's & Mike's Esso Service Station, BEO–0187;
The Tanner Co., BEO–0620;
Interstate Standard, BEO–0298;
Hayes Arco, BEO–0411;
San Jose State University; BEO–0472;
Jarrell's Exxon, BEO–1037;
Sharp Texaco, BEO–1040, Zionsville, IN.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Central Texas Energy Supplier's, Inc., DST–0019.
Chevron, USA, BED–0361.
Dow Chemical, USA, BEO–1167.
Foster Oil Co., DRO–0314.
Ft. Washington Car, BEE–1109; BES–1109.
Great Lakes Research Corp., BEO–0999.
Green's Gas & Go, DEE–5800.
Greiner Welding and Fabricating, Inc., DEE–7466.
Ken's Mobil, DEE–6636.
Mobil Oil Corp., DES–0400; BST–0400.
Office of Enforcement, BRS–0064.
Quincy Oil, Inc., DEE–0447; DED–0006; DED–0007.
Trends Publishing Inc., BFA–0406.
Union 76 Service, DEE–7264.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W. Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also avaialble in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reported system.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

August 12, 1980.

[FR Doc. 80–25097 Filed 8–18–80; 8:45 am]

BILLING CODE 6450–01–M

Objections to Proposed Remedial Orders Filed; Week of July 14 through July 18, 1980

During the week of July 14 through July 18, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice (September 8, 1980). The Office of Hearings and Appeals will then determine those person who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Deputy Director, Office of Hearings and Appeals.

August 12, 1980.

Remedial Orders

Eldon Spencer Oils, Inc., Port Byron, Ill., BRO–1273, motor gasoline and middle distillates

On July 16, 1980, Eldon Spencer Oils, Inc., 1510 North High Street, Port Byron, Illinois 61275, filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on June 12, 1980. In the PRO the Central District found that during the period from November 1, 1973 through March 31, 1975 the firm had failed to maintain records sufficient to demonstrate that its prices were in compliance with the maximum lawful selling prices under the terms of 6 CFR 150.359(c) and 10 CFR 212.93(a) and had in fact charged prices in excess of what was permitted by those regulatory provisions with respect to sales of regular motor gasoline, No. 1 and No. 2 fuel oils and diesel fuels. According to the PRO, the Eldon Spencer Oils, Inc. violation resulted in $162,805.88 of overcharges.

Exxon Company, U.S.A., Houston, Tex., BRO–1274, motor gasoline

On July 17, 1980, Marathon Oil Company, Findlay, Ohio filed a Notice of Objection to a Proposed Remedial Order which the Southwest District Office of Special Counsel issued to Exxon Company, U.S.A. on May 9, 1980. In the PRO the Southwest District concluded that under the pertinent allocation regulations, the exchange agreement consummmated in the months of March, April, and May 1978 between Exxon and Hydrocarbon Trading and Transport Company, Inc. established a supplier/purchaser relationship between Exxon and Hydrocarbon. According to the PRO, Exxon's refusal in March, April and May of 1979 and 1980 to supply Hydrocarbon with the amount of motor gasoline that was supplied to Hydrocarbon in the corresponding months of the base period pursuant to the exchange agreements constitutes a violation of 10 CFR 211.9(a). The PRO orders Exxon to bring itself into compliance with 10 CFR 211.9(a) by offering to sell Hydrocarbon its base period entitlement of gasoline for the months of March, April and May 1979 and 1980.

Fontana Marine Service, Fontana, Wis., BRO–1268, motor gasoline

On July 14, 1980 Fontana Marine Service on Lake Geneva, Fontana, Wisconsin filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on June 18, 1980. In the PRO the Central District found that during the period from August 1, 1979 to May 31, 1980, Fontana charged prices for motor gasoline in excess of the maximum lawful selling price. According to the PRO the Fontana violation resulted in $2,040 of overcharges.

Shatz Bros. Marine Center, Inc., Brooklyn, N.Y., BRO–1272, motor gasoline

On July 15, 1980 Shatz Brothers Marine Center, Inc., 3148 Voorhies Ave., Brooklyn, New York 11235, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on June 12, 1980. In the PRO the Northeast District found that during the period April 22, 1980 to May 27, 1980 Shatz Bros. charged prices significantly in excess of the maximum lawful selling price permitted by 10 CFR, Part 212, and engaged in practices in violation of other provisions of Part 212. According to the PRO the Shatz Brothers Marine Center, Inc., violations resulted in $420.90 of overcharges.

[FR Doc. 80–25092 Filed 8–18–80; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1577-7; PF 196]

Certain Pesticide Chemicals; Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that certain companies have filed requests with the EPA to establish tolerances for residues of pesticide chemicals in or on raw agricultural commodities.

ADDRESS: Written comments and inquiries should be directed to the: Designated Product Manager (PM), Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

Written comments may be submitted while a petition is pending before the Agency. The comments are to be identified by the document control number "[PF-196]" and the specific petition number. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

SUPPLEMENTARY INFORMATION: EPA gives notice that the following pesticide petitions have been submitted to the Agency to establish tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities in accordance with the Federal Food Drug and Cosmetic Act. The analytical method for determining residues, where required, is given in each specific petition.

PP OF2357. Monsanto Co., 1101 7th St., NW, Washington, D.C. 20036. Proposes amending 40 CFR 180.211 by increasing the tolerance for the combined residues of the herbicide 2-chloro-*N*-isopropylacetanilide and its metabolities (calculated as 2-chloro-*N*-isopropylacetanilide) in or on the raw agricultural commodity sorghum forage from "3.0 parts per million (ppm)" to "4.5 ppm." The proposed analytical method for determining residues is gas chromatography using a FID or nitrogen specific detector. (PM 25, Robert J. Taylor, Rm. E-359, 202/755-2196)

PP OF2379. Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.330 by establishing tolerances for the residues of the insecticide *S*-[2-ethylsulfinyl)ethyl] *0,0*-dimethyl phosphorothioate and its cholinesterase-inhibiting metabolites in or on the following raw agricultural commodities:

Commodities	Part per million
Beans, dried	0.01
Bean vines, dried	0.2

The petition also proposes to revise the tolerances for the following commodities:

Commodities	Part per million
Beans, forage	2
Beans, succulent	0.5

The proposed analytical method for determining residues is a gas-liquid chromatographic procedure utilizing a phosphorus specific detector. (PM 16, William H. Miller, Rm. E-343, 202/426-9458)

PP OF2382. E. I. DuPont de Nemours and Co., Inc., Wilmington, DE 19898. Proposes amending 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide hexazinone (3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4 (1*H*, 3*H*)-dione and its metabolites (calculated as hexazinone) in or on the following raw agricultural commodities:

Commodities	Part per million
Alfalfa, forage and hay	5
Meat, fat, and meat byproducts (except liver) of cattle, goats, horses, hogs, and sheep	0.05
Milk	0.05
Liver of cattle, goats, horses, hogs, and sheep	0.1

The proposed analytical method for determining residues is by nitrogen selective gas chromatography. (PM 23, Richard Mountfort, Rm. E-351, 202/755-1397)

PP OF2193. Dow Chemical Co., PO Box 1706, Midland, MI 48640. Proposes that 40 CFR 180.342 be amended by revising the tolerance limitations for residues of the insecticide chlorpyrifos in or on the raw agricultural commodity peanut forage from "15 ppm" to "20 ppm". The proposed analytical method for determining residues is by gas chromatography using a hydrogen flame ionization detector. (PM 12, Jay Ellenberger, Rm. E-303, 202/426-2635)

PP OF2383. Allan H. Bonnell, Brumbaugh, Graves, Donohue, and Raymond, 30 Rockefeller Plaza, NY, NY 10020. Proposes that 40 CFR 180.1001 be amended to establish an exemption from the requirement of a tolerance for *Trichoderma viride sensu* Bisby and *Trichoderma polysporum* Rifai. (PM 21, Eugene Wilson, Rm. E-349, 202/755-1809.

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 135))

Dated: August 13, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-25099 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

[OPTS-51114; FRL 1578-2]

Primary Amyl Nitrates; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by September 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Cindy Work, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202/426-3980.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the **Federal Register** of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the Data taken from the PMN is published herein.

Interested persons may, on or before September 28, 1980, submit to the Document Control Officer (TS–793), Rm. E–447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51114]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: August 13, 1980.

Douglas G. Bannerman,

Acting Deputy Assistant Administrator for Chemical Control.

PMN 80–188

Close of Review Period. October 28, 1980.

Manufacturer's Identity. Ethyl Corp., 451 Florida Blvd., Baton Rouge, LA 70801.

Specific Chemical Identity. Primary amyl nitrates.

The following summary is taken from data submitted by the manufacturer in the PMN.

Use. Diesel fuel cetane improver.

Production Estimates. Claimed confidential.

Physical/Chemical Properties.

Density—0.998
Boiling point—305–314°F (150–155°C).
Flash point—156°F.

Toxicity Data

Skin irritation test (rabbits, rats)—Mild skin irritant. Growth inhibitor when applied dermally.

Inhalation study (rabbits, guinea pigs, rats, cats)—Exposure to 12.3 mg/liter for one hour was lethal to most mice in the study. Rabbits, guinea pigs, rats, and cats (in that order) were less susceptible.

Occupational Exposure

Activity	Potential route(s)	No.[1]	Maximum duration of exposure
Manufacture	Inhalation	4	8 hr/da; 150 da/yr.
Processing	Inhalation, dermal.	8	2 hr/da; 20 da/yr.

[1] Potentially exposed workers.

Environmental Release/Disposal. The submitter claims that environmental release of the PMN substance will be minimal. Inorganic solid wastes, packaged in drums, will be disposed of in an approved chemically secure landfill.

[FR Doc. 80–25082 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1577–8; OPP–C31038]

Receipt of Applications to Conditionally Register Pesticide Products Entailing Changed Use Patterns

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice.

SUMMARY: This notice publishes applications submitted by Ameron to conditionally register pesticide products entailing changed use patterns.

ADDRESS: Written comments to: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: Ameron, Protective Coating Division has submitted to EPA applications to conditionally register pesticide products entailing changed use patterns.

Notice of approval or denial of these applications to register pesticide products will be announced in the **Federal Register.** Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of these applications do not indicate a decision by the Agency on the applications.

Interested persons are invited to submit written comments on these applications. Comments may be submitted, and inquiries directed, to the product manager. The comments must be received on or before September 18, 1980, and should bear a notation

indicating the document control number "[OPP–C31038]" and the applicable file symbol or registration number. Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The label furnished by the applicant, as well as all written comments filed pursuant to this notice, will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Applications Received

EPA File Symbol 8120–GL. Antifouling Red/Gray. Ameron, Protective Coating Div., 201 North Berry Street, Brea, CA 92621. Active Ingredient: tributyltin oxide 9.38% and diiodomethyl-para-tolyl sulfone 7.92%. The application proposes an aquatic impact use pattern. This is the first aquatic impact use pattern proposed for the chemical diiodomethyl-para-tolyl sulfone.

EPA File Symbol No. 8120–GG. Antifouling Red/Green. Ameron. Active Ingredient: tributyltin oxide 11.66% and diiodomethyl-para-tolyl sulfone 8.55%. The application proposes an aquatic impact use pattern. This is the first aquatic impact use pattern proposed for the chemical diiodomethyl-para-tolyl sulfone.

EPA File Symbol No. 8120–GT. Antifouling Red/White. Ameron. Active ingredient: tributyltin oxide 8.09% and diiodomethyl-para-tolyl sulfone 8.00%. The application proposes an aquatic impact use pattern. This is the first aquatic impact use pattern proposed for the chemical diiodomethyl-para-tolyl sulfone.

Dated: August 13, 1980.

Douglas D. Campt,

Director, Registration Divison, Office of Pesticide Programs.

[FR Doc. 80–25100 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1577–6; OPP 50497]

Renewal of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued renewals of experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticide for experimental purposes.

1023–EUP–35. The UpJohn Co., Agricultural R&D, Kalamazoo, MI 49001. This experimental use permit allows the use of 539 pounds of the pesticide amitraz (*N*'-2,4-dimethylphenyl)-*N*-[[2,4-dimethylphenyl)imino]methyl]-*N*-methylmethanimidamide in or on lemons, grapefruits, oranges, and tangerines. A total of 280 acres are involved. The program is authorized only in the States of Arizona, California, Florida, and Texas. The permit is being renewed under the special conditions that the pesticide be used on fresh market fruit only and that orchards in which animals graze not be treated. The experimental program is effective from July 17, 1980 to July 17, 1981. (PM 12, Jay Ellenberger, Rm. E–303, 202/426–2635)

8399–EUP–3. The Great Western Sugar Co., Agricultural Research Center, 11939 Sugarmill Road, Longmont, CO 80501. This experimental use permit allows the use of 70 pounds of the plant growth regulator propylene on sugarbeets to evaluate reduction of sucrose loss. A total of 20,000 tons of sugarbeet roots (harvested) are involved. The program is authorized only in the State of Colorado. The experimental program is effective from August 30, 1980 to August 30, 1981. A temporary exemption from the requirement of a tolerance has been established. (PM 25, Robert J. Taylor, Rm. E–359, 202/755–2196

Interested persons wishing to review the experimental use permits are referred to the designated Product Manager, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street SW, Washington, DC 20406. It is suggested that such persons call before visiting the EPA, so that the appropriate file may be made conveniently available for review purposes. The files are available for inspection from 8:00 a.m. to 4:00 p.m., Mondays through Fridays, excluding holidays.

(Sec. 5, 92 Stat. 189 as amended, (7 U.S.C. 136))

Dated: August 13, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80–25098 Filed 8–18–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180423; FRL 1509–4]

Pennsylvania Department of Agriculture; Specific Exemption to Use Fenvalerate

Correction

In FR Doc. 80–17343 appearing on page 38443 in the issue of Monday, June 9, 1980, make the following correction:

In the third column of page 38443, fourth line, "Pydin . . ." should have read "Pydrin . . .".

BILLING CODE 1505–01–M

[FRL 1577–5; PP 9G2183/T266]

Hercon Products Group; Renewal of Temporary Exemption From Requirement of Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed a temporary exemption from the requirement of a tolerance for residues of the insecticide (*Z*)-11-hexadecenal with (*z*)-9-tetradecenal in or on cottonseed when used as a pheromone to disrupt mating in tobacco budworms and bollworms.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767), Office of Pesticide Programs, Rm. E–341, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, (202–426–9417) at the above address.

SUPPLEMENTARY INFORMATION: On May 1, 1979 EPA issued a notice that published in the **Federal Register** (44 FR 25506) that Hercon Products Group, Herculite Products, Inc., 1107 Broadway, NY, NY 10010, had filed a pesticide petition (PP 9G2183). The petition requested that an exemption from the requirement of a tolerance be established for residues of the insecticide (*Z*)-11-hexadecenal with (*z*)-9-tetradecenal in or on the raw agricultural commodity cottonseed when used as a pheromone to disrupt mating in the tobacco budworm and bollworm. This temporary exemption expired April 3, 1980.

Hercon Products Group has requested a renewal of the temporary exemption to permit the marketing of cottonseed treated in accordance with the experimental use permit which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material have been evaluated and it has been determined that renewal of the temporary exemption from the requirement of a tolerance will protect the public health. Therefore, the temporary exemption has been renewed under the condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the active insecticide to be used must not exceed the amount authorized in the experimental use permit.

2. Hercon must immediately notify the EPA of any findings from the experimental use permit or the temporary tolerance that have a bearing on safety. The firm will also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires July 21, 1981. Residues in or on the above raw agricultural commodity after the 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 exemption from the requirement of a tolerance. The temporary exemption may be revoked if the experimental use permit is revoked or if any scientific data or experience with the pesticide indicate such revocation is necessary to protect the public health.

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 346a(j)))

Dated: August 13, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-25101 Filed 8-18-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1243]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

August 12, 1980.

The following listing of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expires.

Docket or RM No.	Rule section	Subject	Date received
20642		Clear Channel Broadcasting in the AM Broadcast Band	
		Filed by:	
		Robert P. Bigelow, Editor for Computer Law and Tax Report.	7-14-80
		William O. Barry, President for Great Southern Broadcasting Company, Inc. (WAMB).	7-16-80
		Alvin L. Anderson, President for KBMR Radio Inc. (KERR)	7-18-80
		David Honig, Research Director for National Black Media Coalition.	7-21-80
		Willis A. Deal, President for Piedmont Broadcasting Company, Inc. (WSPF).	7-21-80
		Everett H. Erlick, Robert J. Kaufman, Mark D. Roth, James A. McKenna, Jr., and R. Michael Senkowski, Attorneys for American Broadcasting Companies, Inc.	7-25-80
		Paul J. Berman, Attorney for Midwest Television, Inc. (KFMB).	7-28-80
		Peter Shuebruk and Zave M. Unger, Attorneys for Midwest Radio Television, Inc. (Petitions I, II, and III).	7-28-80
BC 79-340	73.202(b)	Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations. (Malakoff, Texas).	
		Filed by Harry J. Ockershausen and Christopher J. Reynolds, Attorneys for Seven Seals Broadcasting Company.	7-2-80

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-25216 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

Trinity Broadcasting of Denver, Inc. and LUB Television Associates, Ltd.; Hearing Designation Order

Adopted: August 5, 1980.

Released: August 15, 1980.

By the Chief, Broadcast Bureau:

In the matter of applications of Trinity Broadcasting of Denver, Inc., Denver, Colorado (BC Docket No. 80-500, Filed No. BPCT-5057) and LUB Television Associates Limited, a limited partnership, d.b.a. La Unidad Broadcasting Corporation, Denver, Colorado (BC Docket No. 80-501, Filed No. BPCT-5097): for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications,[1] filed by Trinity Broadcasting of Denver (Trinity) and LUB Television Associates Ltd. (LUB) for a new commercial television station on Channel 31, Denver, Colorado.[2]

LUB Television Associates Ltd.

2. The financial data submitted by LUB indicates that $117,135 will be required to construct and operate the proposed station for three months, itemized as follows:

Legal	$15,000	
Engineering	5,000	
Installation	20,000	
Miscellaneous	5,000	
Total construction costs	$45,000	
Operating Expenses (includes costs of equipment, land and building lease)		72,135
Total proposed expenditures		$117,135
To meet these expenditures LUB intends to rely upon:		
Capital contributions		$250,000
Bank loan (less interest and principal)		88,220
Network guarantee		100,000
Total funds available		$438,220

3. Analysis of the financial data presented in paragraph 2 leads to the following conclusions:

(a) Regarding the capital contributions, the Commission is unable to determine whether these funds can be relied upon. The balance sheets of stock subscribers Quintana, Rodriquez and Duran indicate that they do not have sufficient liquid assets to meet their combined commitments of $85,000. The balance sheets were not submitted pursuant to the instructions contained in Paragraph 4(b), Page 3, Section III, Form 301. In some instances, liabilities were not segregated into current and long term items. Where this is not done, all liabilities must be assumed to be

[1] These applications were filed under the procedures adopted in *Adjudicatory Re-regulation Proposals,* 58 FCC 2d 865 (1976). Subsequently, the Commission adopted new procedures, *Revised Procedures For the Processing of Contested Broadcast Applications,* 45 RR 2d 1220 (1979). Accordingly, these applications will be considered under the revised procedures. Furthermore, the matters sought to be raised by the parties in issue pleadings have been considered herein only to the extent they relate to qualifications issues specifically included in this order.

[2] Several amendments were tendered for filing by Trinity after the cut-off date for amending as a matter of right. Acceptance of Trinity's amendments is unopposed and, since the information contained in these amendments is required to be reported under Section 1.65 of the Rules, these amendments will be accepted for filing.

current. Furthermore, information has not been submitted to show that other non-liquid assets can be relied upon to provide funds to meet commitments. Therefore, a question arises, as to the availability of the $85,000 in stock subscription capital as a source of funds.

(b) LUB proposes to lease broadcast equipment (transmitter, antenna, etc.) from Spanish International Network (SIN), and also proposes to lease the land and buildings on which it is to operate. However, there is no indication that SIN is an equipment manufacturer or in the business of buying and leasing broadcast equipment. Subsequently, LUB is required to submit a balance sheet or a financial statement from SIN showing that it possesses the "net liquid assets" necessary to purchase the equipment and lease same to LUB, (see paragraph 4(b), Section III, page 3, Form 301). If these requirements are not met, LUB is considered to have to pay $208,000 in cash for its equipment. In addition, the $100,000 in proposed advertising revenue will not be considered under the new 90 day rule unless prepaid.[3] Accordingly, limited financial issues will be specified against LUB under (a) and (b), supra.

4. LUB indicates that its programming proposal is in response to the community needs and problems. However, LUB has not sufficiently described the broadcast matter, nor has the applicant made a showing as to which programs are responsive to which problems and needs. Accordingly, a limited ascertainment issue will be specified.

Trinity Broadcasting of Denver

5. Trinity has failed to comply with certain requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). From the information before us, it appears that the applicant has failed to survey leaders of significant population groups set forth in its demographic study. *Voice of Dixie, Inc.*, 45 FCC 2d 1027, 29 RR 2d 1127 recon. den. 47 FCC 2d 526, 30 RR 2d 851 (1974). Trinity has submitted a list of approximately 200 "Community Leaders." However, it is not possible to determine whether any minority or ethnic leaders have been surveyed, particularly those of Black or Hispanic origin. Accordingly, a limited ascertainment issue will be specified.

6. Except as indicated by the issues specified below, the Commission finds Trinity Broadcasting of Denver and LUB Television Associates Ltd. legally, financially, technically and otherwise qualified. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of the applications will serve the public interest, convenience and necessity. The applications must therefore be designated for hearing on the issues set out below.

7. Accordingly, it is ordered, that, pursuant to Section 309(e) of the Communications Act of 1934 as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine, whether Trinity, complied with Question and Answer 7 of the *Primer* by interviewing leaders of minority/ethnic groups, and if not, the effect on the applicant's basic qualifications.

(2) To determine, with respect to LUB:

(a) whether stock subscribers have sufficient liquid assets to meet their commitments.

(b) whether SIN possesses the "net liquid assets" necessary to purchase broadcast equipment and lease same to LUB.

(c) whether, in light of the evidence adduced pursuant to (a) and (b) above, applicant is financially qualified to construct and operate as proposed.

(d) whether the programming proposal reflects an evaluation of its ascertained needs and problems, and if not, the effect on the applicant's basic qualifications.

(3) To determine, on a comparative basis, which of the applications would better serve the public interest.

(4) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

8. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within twenty (20) days of the mailing of this Order, shall file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

9. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934 as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-25214 Filed 8-18-80; 8:45 am]

BILLING CODE 6712-01-M

[3] The Commission notes that "there are 90 days between the initial start-up period between commencement of broadcast operations and the point in time where advertising accounts begin to remit revenue." (*New Financial Qualifications Standard for Broadcast Television Applicants*, FCC 79-299, May 11, 1979). Therefore, anticipated revenue will not be considered unless the advertising is paid in advance.

National Industry Advisory Committee, Broadcast Services Subcommittee; Meeting

August 15, 1980.

Pursuant to the provisions of the Public Law 92-463, announcement is made of a public meeting of the Broadcast Services Subcommittee of the National Industry Advisory Committee to be held Thursday, September 11, 1980. The Subcommittee will meet at the National Association of Broadcasters in the Board Room, located at 1771 N Street, NW., Washington, D.C. at 10 a.m.

Purpose: To consider proposals related to the Emergency Broadcast System (EBS).

Agenda items

1. Opening remarks by Chairman.
2. Comments by Mr. John W. Macy, Jr., Director of the Federal Emergency Management Agency (FEMA).
3. Emergency Broadcast System (EBS) tests:
   a. Propose nationwide test of the EBS, combining the Weekly Off-the-Air Monitoring Test with the Closed Circuit Test (CCT);
   b. Include participation of TV networks and non-affiliated stations in the CCT at least once a year;
   c. Provide evening time windows for the purpose of conducting a CCT;
   d. Carriage of EBS Emergency Activation Notifications (EAN) on *all* AP and UPI Subscriber networks.
4. In lieu of— ". . . in voluntary cooperation with the FCC and other authorities have developed this system etc., etc.," change the weekly off-the-air test announcement to either of the following:
   a. . . . in voluntary cooperation with the Federal Communications Commission and the Federal Emergency Management Agency . . .; or
   b. . . . in voluntary cooperation with Federal, State and local authorities. . . .
5. Presentation of Working Group report by Granville Klink on the FEMA Studio Transmitter Link (STL) and Broadcast Station Protection Program (BSPP) proposal.
6. Develop recommendation regarding adding other representatives to the Subcommittee from:
   a. Equipment manufacturers;
   b. Satellite carriers;

c. MDS, IFTS, CATV licensees (HBO, Showtime) and other non-lincensee organizations like MUSAK.

7. Consider approval of draft EBS Activation postcard.

8. Consider approval of FCC, FEMA, NWS, NIAC Agreement.

9. FEMA and Nuclear Regulatory Commission (NRC) presentations regarding "A prompt Notification System" relative to nuclear power plants.

10. Other business.

11. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–25215 Filed 8–18–80; 8:45 am]

BILLING CODE 6712–01–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, on or before September 8, 1980, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operators 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–21–7.

Filing Party: Ronald L. Laumbach, Cargill, Incorporated, Law Department, P.O. Box 9300, Minneapolis, Minnesota 55441.

Summary: Agreement No. T–21–7, between Sacramento-Yolo Port District (Port) and Cargill, Inc. (Cargill), modifies the basic agreement which provides for the lease to Cargill of a grain terminal facility at Sacramento, California. The purpose of the modification is to increase the monthly rental to $8,000, and to increase the minimum tonnage of the commodities to be transported from the grain elevator by deep sea vessel to 1,250,000 tons for the five-year period ending June 30, 1985.

Agreement No.: T–3917.

Filing Party: Edward W. Wellman, Jr., Cummings & Lockwood, One Atlantic Street, Stamford, Connecticut 06904.

Summary: Agreement No. T–3917, between Farrell Lines, Inc. (Farrell) and Howland Hook Marine Terminal Corporation, (Howland Hook) sets forth the terms and conditions for Farrell's use of its wholly-owned subsidiary, Howland Hook. Agreement No. T–3917 consolidates and restates the contractual relationships between the parties, originally set forth in Agreements Nos. T–2903, T–2903–B and T–2903–3. Pursuant to the terms of the agreement, Howland Hook supplies all marine terminal services at the Port of New York to Farrell. As compensation, Farrell will pay Howland Hook all fixed and variable costs, as set forth in the agreements.

Agreement No.: 6010–24.

Filing Party: Charles F. Warren, Warren & Associates, P.C., 1100 Connecticut Avenue N.W., Washington, D.C. 20036.

Summary: Agreement No. 6010–24 amends the basic agreement of the Straits/New York Conference to clarify the voting procedures under Article 10(a).

Agreement No.: 7540–34.

Filing Party: Seymour H. Kligler, Esquire, Brauner Baron Rosenzweig Kligler Sparber & Bauman, (The Firm of Herman Goldman), Attorneys at Law, 120 Broadway, New York, New York 10271.

Summary: Agreement No. 7540–34 modifies the basic agreement of the Leeward and Windward Islands and Guianas Conference to expressly provide that members may agree upon and publish credit rules including a bonding and/or security requirement and/or provisions denying credit.

Agreement No.: 8493–12.

Filing Party: Robert B. Yoshitomi, Esquire, Lillick, McHose & Charles, Attorneys for the Trans-Pacific American Flag Berth Operators, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreement No. 8493–12 amends the first paragraph of Article 12(a)(2) of the Trans-Pacific American Flag Berth Operators' (TPAFBO) Agreement by (1) adding language which permits the neutral body employed by TPAFBO to police any member of any other conference or rate-fixing agreement or any independent carrier in any trade, and (2) providing that the neutral body need not divulge to TPAFBO, its interests in any conference, rate agreement or independent carrier in whose behalf it acts. In addition, Article (11)(a)(2)(i) is amended by deleting reference to a two-thirds majority vote, inasmuch as TPAFBO sets tariff rates and practices by unanimous vote.

Agreement No.: 10399.

Filing Party: William H. Fort, Esquire, Kominers, Fort, Schlefer and Boyer, 1776 F Street, Northwest, Washington, D.C. 20006.

Summary: Agreement No. 10399 is a settlement agreement among Moore McCormack Lines, Incorporated (Mooremac), Empresa Lineas Maritimas Argentinas, S.A. (ELMA), and A/S Ivarans Rederi (Ivaran) that emanated from a Court proceeding wherein Ivaran has contested the Commission's approval of Agreement No. 10349. Ivaran agrees to pay Mooremac and ELMA $25,919 apiece in settlement of all outstanding obligations owed by Ivaran to the national-flag lines under Agreement No. 10349. Mooremac and ELMA on the one hand, and Ivaran on the other, agree to give up any claim with respect to any money owed to them by the other under Agreement No. 10349. After approval, Ivaran agrees to withdraw its appeal, all three parties agree to cooperate in effecting dismissal of the Court proceeding, and Ivaran agrees not to take an active part in the proceeding if it is not dismissed. The agreement stipulates that there will be no further recovery with respect to Agreement No. 10349, regardless of any disposition by the Court. The agreement will become null and void unless the Commission, within 120 days of filing, either approves the agreement or deems that its approval is not required.

Agreement No.: 10400.

Filing Party: J. D. Straton, Jr., Director Rates and Conferences, Moore McCormack Lines, Incorporated, 2 Broadway, New York, New York 10004.

Summary: Agreement No. 10400, between Robin Line (Robin), a service of Moore McCormack Lines, Inc., and Mediterranean Shipping Company (MSC), provides for a transshipment agreement for the transportation of general cargo in the trade between the U.S. Atlantic ports and ports in Mozambique, Tanzania, Kenya and Somalia, with transshipment at a port in South or East Africa, in the Cape Town/Mombasa range. The through rates are to be in accordance with Robin Line Outward Tariff in effect at time of shipment. The division of net through freight revenue and transshipment expenses, including storage charges, are to be divided one-third to MSC and two-thirds to Robin. The agreement may be terminated by either party upon 6 months' written notice to the other party.

Dated: August 14, 1980.

By order of the Federal Maritime Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-25111 Filed 8-18-80; 8:45 am]

BILLING CODE 6730-01-M

Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Dusan Jovanovic, 8630 Aviation Blvd., Inglewood, CA 90301.

Overseas Express (Andrew P. Lu, d.b.a.), 12671 Megibar Avenue, San Diego, CA 92129.

AAPKO Forwarders, Inc., P.O. Box 103, 1570 W. Balncke Street, Linden, NJ 07036, Officers: Arnold Wishinsky, President, Keith Devine, Secretary/Treasurer, Palmina Nuzzo.

Harley Quincy Moore, 1903 Marlock Lane, Pasadena, TX 77502.

Dated: August 14, 1980.

By the Federal Maritime Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-25112 Filed 8-18-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1844]

Peninsula Air Delivery; Order of Revocation

On May 2, 1980, Peninsula Air Delivery, P.O. Box 668, Mountain View, CA 94042, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1844.

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. 1844 issued to Peninsula Air Delivery, be and is hereby revoked effective May 2, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1844 issued to Peninsula Air Delivery, be returned to the Commission for cancellation.

It is further ordered, That a copy of this Order be published in the **Federal Register** and served upon Peninsula Air Delivery.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-25110 Filed 8-18-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Arbuckle Bancorp. Inc.; Formation of Bank Holding Company

Arbuckle Bancorp., Inc., Sulphur, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First Oklahoma Bank & Trust Company, Sulphur, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 11, 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, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25137 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

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)) § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to 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 September 11, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. Chemical New York Corporation, New York, New York (investment advisory activities; Colorado, New Mexico, Wyoming, Utah, Idaho and Montana): to engage through its subsidiary, Van Devanter & Hock, Inc., in activities that may be carried on by an investment advisor, including offering portfolio investment advice to individuals, corporations, governmental entities and other institutions on both a discretionary and non-discretionary basis. These activities would be conducted from an office in Denver, Colorado, serving Colorado, New Mexico, Wyoming, Utah, Idaho and Montana.

2. Citicorp, New York, New York (finance company activities; Illinois, Indiana, Michigan, Wisconsin, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota): to engage through its subsidiary Citicorp Private Capital, Inc., in finance company activities including the making or acquiring of loans and other extensions of credit with primary emphasis on loans to business enterprises and large loans to individuals. These activities would be conducted from an office in Chicago, Illinois serving the ten states listed in the caption of this notice.

3. Citicorp, New York, New York (finance company activities; New Mexico, Louisiana, Oklahoma, Texas): to engage through its subsidiary Citicorp Private Capital, Inc., in finance company activities including the making or acquiring of loans and other extensions of credit with primary emphasis on loans to business enterprises and large loans to individuals. These activities would be conducted from an office in Houston, Texas, serving the four states listed in the capition of this notice.

4. Citicorp, New York, New York (finance company activities; Arizona, California, Hawaii, Nevada, Utah): to engage through its subsidiary Citicorp Private Capital, Inc. in finance company activities including the making or acquiring of loans and other extensions of credit with primary emphasis on loans to business enterprises and large loans to individuals. These activities would be conducted from an office in Beverly Hills, California serving the five states listed in the caption of this notice.

5. Citicorp, New York, New York (finance company activities; Alaska, California, Colorado, Idaho, Oregon, Washington, Wyoming): to engage through its subsidiary Citicorp Private Capital, Inc. in finance company activities including the making or acquiring of loans and other extensions of credit with primary emphasis on loans to business enterprises and large loans to individuals. These activities would be conducted from an office in San Francisco, California serving the seven states listed in the caption of this notice.

B. *Federal Reserve Bank of Richmond* (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Dominion Bankshares Corporation, Roanoke, Virginia (insurance activities; Virginia): to engage, through a subsidiary known as Dominion Bankshares Services, Inc., in the following activities: acting as insurance agent or broker with respect to the following types of insurance related to or arising out of loans made or credit transactions involving an affiliate or subsidiary of Dominion Bankshares Corporation, credit disability insurance; mortgage redemption insurance and mortgage accident and health insurance; non-convertible term life insurance; physical damage insurance on motor vehicles, mobile homes, motor homes, boats, trailers and other kinds of personal property or attachments designed for use in connection therewith. Dominion Bankshares Corporation, Roanoke, Virginia, additionally proposes to continue to engage through Dominion Bankshares Services, Inc. in the following activities: acting as insurance agent or broker with respect to the following types of insurance related to or arising out of loans made or credit transactions involving an affiliate or subsidiary of dominion Bankshares Corporation: credit life insurance, credit accident and health insurance.

Dominion Bankshares Services, Inc. will be headquartered at 213 South Jefferson Street, Roanoke, Virginia. Its activities will be conducted through offices of The First National Exchange Bank of Virginia, Dominion National Bank of Richmond, Dominion National Bank of Tidewater, Dominion National Bank of Northern Virginia, Southampton County Bank, Cumberland Bank & Trust Company, Dominion National Bank and The First National Exchange Bank of Montgomery County. Such activities will be conduted in the following locations: Roanoke SMSA; City of Bedford; Bedford County; Rockbridge County; City of Lexington; City of Buena Vista; Alleghany County; City of Covington; City of Clifton Forge; Giles County; Wythe County, Smyth County; Tazewell County; Russell County; Wise County; City of Norton; Richmond SMSA; Norfolk-Virginia Beach-Portsmouth, Virginia-North Carolina SMSA (Virginia portion only); Newport News-Hampton SMSA; Washington, D.C.-Maryland-Virginia SMSA (Virginia portion only); Southampton County; City of Franklin; Buchanan County, Dickenson County; Johnson City-Kingsport-Bristol, Tennessee-Virginia SMSA (Virginia portion only): Montgomery County; City of Radford.

2. Dominion Bankshares Corporation, Roanoke, Virginia (insurance activities, Tennessee, Virginia): to engage, through a subsidiary known as Dominion Bankshares Services, Inc. in the following activities: acting as insurance agent or broker with respect to the following types of insurance related to or arising out of loans made or credit transactions involving an affiliate or subsidiary of Dominion Bankshares Corporation: credit life insurance, credit accident and health insurance and credit disability insurance; mortgage redemption insurance and mortgage accident and health insurance; non-convertible term life insurance; physical damage insurance on motor vehicles, mobile homes, motor homes, boats, trailers and other kinds of personal property or attachments designed for use in connection therewith. Dominion Bankshares Services, Inc. will be headquartered at 213 South Jefferson Street, Roanoke, Virginia. Its activities will be conducted through offices of Dominion National Bank of Fredericksburg, Bank of Smithfield, Metropolitan Mortgage Fund, Inc., State Mortgage Corporation, Rockingham National Bank, The Commercial and Savings Bank, The Farmers Bank of Edinburg, Incorporated, Western Frederick Bank and The Farm Loan Corporation. Such activities will be conducted in the following locations: City of Fredericksburg; Spottsylvania County; Stafford County; Isle of Wight County; Nashville, Tennessee SMSA; Washington, D.C.-Maryland-Virginia SMSA (Virginia portion only): Newport News-Hampton SMSA; Norfolk-Virginia Beach-Portsmouth, Virginia-North Carolina SMSA (Virginia portion only); City of Martinsville; Henry County; Richmond SMSA; Roanoke SMSA; Mecklenburg County; City of Harrisonburg; Rockingham County; Augusta County; City of Staunton; City of Waynesboro; City of Winchester; Frederick County; Shenandoah County.

C. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant, Vice President:

Americorp, Shawnee, Oklahoma (financing activities; Oklahoma): to engage in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial loan company, such as construction loans secured by real estate mortgages under contract sale and working capital and equipment loans to oil-related industries. Such activities will be conducted at offices located at 201 North Broadway, Shawnee, Oklahoma, and the geographic scope of the activities will be the area within a 25-mile radius of Shawnee, Oklahoma.

D. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President), 400 Sansome Street, San Francisco, California 94120:

Old National Bancorporation, Spokane, Washington (insurance activities; Washington): to make available through its subsidiary, Union Securities Co., insurance coverage to VISA cardholders by offering VISA cardholders credit life and disability insurance which would pay the minimum monthly payment due on VISA accounts retroactive after the cardholder has been disabled 30 days. The credit life and disability insurance to be offered VISA cardholders will also include minimum monthly payment protection for involuntary loss of income. These activities would be conducted from the main office of Union Securities Co., at Spakane, Washington, for customers of another subsidiary of Applicant, Old National Bank of

Washington, which has branch offices throughout the State of Washington, and would serve the State of Washington.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25117 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Bellevue Service Co.; Proposed Acquisition of Bellevue Service Company Insurance Agency

Bellevue Service Company, Bellevue, Iowa, 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 retain voting shares of Bellevue Service Company Insurance Agency, Bellevue, Iowa.

Applicant states that the proposed subsidiary would continue to engage in the sale of credit-related life, accident and health insurance in connection with the extension of credit by Applicant's bank subsidiary. These activities would be performed from offices of Applicant's subsidiary in Bellevue, Iowa, and the geographic area to be served is Jackson County, Iowa. 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 interest, 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 Chicago.

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 September 11, 1980.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25122 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Chickasha Bancshares, Inc.; Formation of Bank Holding Company

Chickasha Bancshares, Inc., Chickasha, Oklahoma, has applied for the Board's approval under section 3(a)(1)) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of Chickasha Bank & Trust Company, Chickasha, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 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, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25127 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Citibank Interamerica; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Citibank Interamerica, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Beverly Hills, California. Citibank Interamerica operates as a subsidiary of Citibank, N.A., New York, New York.

The factors that are to be considered in acting on this application are set forth in section 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. 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 September 11, 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25116 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

First Alabama Bancshares, Inc.; Acquisition of Bank

First Alabama Bancshares, Inc., Montgomery, Alabama, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Chilton County Bank, Thorsby, Alabama. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 11, 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, identify 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, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25138 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

First Bank Holding Company of Colorado; Formation of Bank Holding Company

First Bank Holding Company of Colorado, Lakewood, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding

Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of First Bank Holding Company, Lakewood, Colorado, and thereby indirectly acquire 100 percent (less directors' qualifying shares) of FirstBank of Westland, N.A., Lakewood, Colorado, FirstBank of Wheat Ridge, N.A., Wheat Ridge, Colorado, FirstBank of North Longmont, N.A., Longmont, Colorado, FirstBank of Castle Rock, N.A., Costle Roch, Colorado, FirstBank of West Arvada, N.A., Colorado, FirstBank of Minturn, Minturn, Colorado, FirstBank of Vail, Vail, Colorado, FirstBank of Erie, Erie, Colorado, FirstBank of Gunbarrel, N.A., Boulder, Colorado, FirstBank of Academy Park, Lakewood, Colorado, FirstBank of Villa Italia, N.A., Lakewood, Colorado, FirstBank of Governor's Ranch, N.A., Denver, Colorado, and FirstBank of South Longmont, N.A., Longmont, Colorado. 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)).

First Bank Holding Company of Colorado, Lakewood, Colorado, has also 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 engage in data processing, credit-related insurance activities, and acting as insurance agent for its subsidiary banks. The data processing activities would be performed from an office in Lakewood, Colorado and will serve Jefferson, Denver and Eagle Counties, Colorado. The credit-related insurance agency activities would be performed from the following: FirstBank of Westland, N.A., Westland, Colorado, FirstBank of Vail, Vail, Colorado, FirstBank of Wheat Ridge, N.A., Wheat Ridge, Colorado, FirstBank of Erie, Erie, Colorado, FirstBank of Minturn, Minturn, Colorado, FirstBank of North Longmont, N.A., Longmont, Colorado, FirstBank of Gunbarrel, N.A., Boulder, Colorado, FirstBank of Castle Rock, N.A., Castle Rock, Colorado, FirstBank of Academy Park, Lakewood, Colorado, FirstBank of South Longmont, N.A., Longmont, Colorado, FirstBank of West Arvada, N.A., Arvada, Colorado, FirstBank of Villa Italia, N.A., Lakewood, Colorado, and FirstBank of Governor's Ranch, N.A., Denver, Colorado and the geographic area to be served is the same as that served by those of Applicant's subsidiary banks listed herein. Applicant's insurance agent activities would be performed from an office in Lakewood, Colorado and would serve the banks listed in the preceding sentence. 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 September 12, 1980.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25129 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

How-Win Development Co.; Proposed Retention of How-Win Insurance Agency

How-Win Development Co., Cresco, Iowa, 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 retain How-Win Insurance Agency, Cresco, Iowa.

Applicant states that the subsidiary would continue to engage in the sale of credit life and credit accident and health insurance directly related to extensions of credit by Cresco Union Savings Bank, Cresco, Iowa. These activities would be performed from offices of Applicant's subsidiary bank in Cresco, Iowa, and the geographic area to be served is within a nine-mile radius of Cresco, Iowa. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 12, 1980.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25134 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Iowa Bancorporation; Proposal To Continue To Engage in Insurance and Lending Activities

Iowa Bancorporation, Des Moines, Iowa, 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 continue to engage in the activities of general insurance in a town with a population of less than 5,000 and in making extensions of credit. These activities would be performed from offices of Applicant's subsidiary in LaPorte City, Iowa, and the geographic areas to be served are Black Hawk County, Iowa. 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 Chicago.

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 August 29, 1980.

Board of Governors of the Federal Reserve System, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25130 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Jasper Investment Co., Inc.; Formation of Bank Holding Company

Jasper Investment Company, Inc., Jasper, Minnesota, 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 88.8 percent of the voting shares of Jasper State Bank, Jasper, Minnesota. 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 12, 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, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25120 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

MilWisc Bancorp, Inc.; Formation of Bank Holding Company

MilWisc Bancorp, Inc., Milwaukee, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Midtown State Bank, Milwaukee, Wisconsin. 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 Reserve Bank, to be received not later than September 11, 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, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25128 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

National Bancshares, Inc.; Formation of Bank Holding Company

National Bancshares, Inc., Bethany, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank of Bethany, Bethany, 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 Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 11, 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, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25119 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Norlo, Inc.; Formation of Bank Holding Company

Norlo, Inc., Prior Lake, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Prior Lake State Bank, Prior Lake, Minnesota. 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 4, 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, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25139 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

P & D Company of Stewartville, Inc.; Proposed Continuation of Insurance Agency Activities

P & D Co. of Stewartville, Inc., Stewartville, Minnesota, 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 continue to engage in general insurance agency activities in a community where the population does not exceed 5,000.

Applicant states that it would engage in activity of selling. These activities would be performed from offices of Applicant's subsidiary in Stewartville, Minnesota, and the geographic area to

be served is an area within a fifteen mile radius of Stewartville, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 12, 1980.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25135 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Southeast Bancshares, Inc.; Formation of Bank Holding Company

Southeast Bancshares, Inc., Dallas, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Commercial National Bank, Dallas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 12, 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, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25121 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Southwestern Investment Co.; Proposed Retention of General Insurance Activities

Southwestern Investment Company, Appleton, Minnesota, 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 retain its general insurance agency in Appleton, Minnesota, a community with a population not exceeding 5,000.

Applicant states that it would continue to engage in the activities of operating a general insurance agency. These activities would be performed from offices of Applicant's subsidiary in Appleton, Minnesota, and the geographic areas to be served are the city of Appleton and surrounding rural area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 12, 1980.

Board of Governors of the Federal Reserve System, August 12, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25132 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Union International Bank; Relocation of Principal Office of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Union International Bank, Los Angeles, California, a corporation organized under section 25(a) of the Federal Reserve Act, has requested the Board's consent to relocate its principal office to Houston, Texas. Union International Bank operates as an indirect subsidiary of Standard Chartered Bank Limited, London, England. Union International Bank has also applied for consent to change its name to Standard Chartered Bank International.

The factors that are to be considered in acting on the application to relocate the principal office are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than September 8, 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25118 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

United Citizens Bancshares, Inc.; Formation of Bank Holding Company

United Citizens Bancshares, Inc., Ashland County, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company act

(12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of United Citizens Bank of Cheatham County, Ashland City, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than September 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, August 13, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25123 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

Valley State Investments, Inc.; Proposed Continuation of Insurance Agency Activities

Valley State Investments, Inc., Lamar, Colorado, 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 continue to engage in general insurance agency activities in a community with a population not exceeding 5,000. These activities would be performed from offices of Applicant's subsidiary in Lamar, Colorado, and the geographic area to be served is the area within a 50 mile radius of Lamar, Colorado. 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 September 4, 1980.

Board of Governors of the Federal Reserve System, August 11, 1980.

Cathy L. Petryshyn,

Assistant Secretary of the Board.

[FR Doc. 80-25136 Filed 8-18-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Continental Grain Co.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Continental Grain Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Central Soya Company, Inc., The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Central Soya. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 6, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc 80-25200 Filed 8-18-80; 8:45 am]

BILLING CODE 6750-01-M

Digital Equipment Corp.; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Digital Equipment Corporation is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of International Telephone & Telegraph Corp. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination subitted by Digital. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-25243 Filed 8-18-80; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

[F-80-14]

Delegation of Authority to the Secretary of Defense

1. *Purpose.*—This delegation authorizes the secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Arizona Corporation Commission involving intrastate telecommunications service rates.

2. *Effective date.*—This delegation is effective immediately.

3. *Delegation:* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Arizona Corporation Commission involving the application of the Mountain States Telephone and Telegraph Company for an increase in its rates for intrastate telecommunications services. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: August 4, 1980.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 80-25244 Filed 8-18-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80P-0004/CP]

Tomato Juice Deviating From Identity Standard; Amendment of Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the amendment of a temporary permit issued to Libby, McNeill & Libby, Inc., to market test tomato juice from concentrate to which ascorbic acid is added to attain a vitamin C level of 4 milligrams per fluid ounce. This action enables Libby, McNeill & Libby, Inc., to improve the quality of information to be derived from the market test by increasing the areas of distribution.

DATES: This amended permit is effective for 15 months beginning on the date the new food is introduced into or caused to be introduced into interstate commerce, but no later than August 11, 1980. However, the permit may terminate sooner depending upon the final action on FDA's proposal to amend the standard of identity for tomato juice published in the **Federal Register** of May 9, 1978 (43 FR 19864). If the proposal is affirmed, the permit will terminate on the effective date of the final regulation. If the proposal is rejected, the permit will expire 30 days after such negative ruling on the proposal.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A temporary permit was issued to Libby, McNeill & Libby, Inc., under 21 CFR 130.17, to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341). Notice of the issuance of the permit was published in the **Federal Register** of May 13, 1980 (45 FR 31498).

Libby, McNeill & Libby, Inc., has requested that the temporary permit issued to it on May 6, 1980, be amended by increasing the permitted areas of distribution to include the State of New Mexico. The company indicated that the exclusion of New Mexico from the areas of distribution requested in its application for a temporary permit was an inadvertent error on its part. Accordingly, FDA is amending the temporary permit issued to Libby on May 6, 1980, to include New Mexico in one of the permitted areas of distribution. Distribution in New Mexico is subject to the same requirements as stated in one temporary permit.

Dated: August 11, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-24846 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-03-M

Health Services Administration

National Advisory Council on the National Health Service Corps.; 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 September 1980:

Name: National advisory Council on the National Health Service Corps.

Date and Time: September 15-17, 1980, 9:00 a.m., September 15—9 a.m.-5 p.m., September 16—Site Visits, September 17—9 a.m.-12 noon.

Place: Tower Suite, Peachtree Plaza Hotel, 210 Peachtree Street, Atlanta, Ga. 30303.

Open for entire meeting, except a formal meeting of the Council will not be held on Tuesday, September 16, due to the Council members visiting National Health Service Corps sites located in the Atlanta area.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: Agenda items include discussions of: Organization of new Bureau for NHSC; the NHSC scholarship program; student assistance programs; recruitment policies; and status of legislation and funding situation.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should write to or contact MS. CHARLOTTE WALCH, National Health Service Corps, Health Service Administration, Parklawn Building, Room 6A-14, 5600 Fishers Lane, Rockville, Md. 20857. Telephone: (301) 443-4046.

Agenda items are subject to change as priorities dictate.

Dated: August 12, 1980.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 80-25100 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-84-M

National Institutes of Health

Renewal of NIH Public Advisory Committees

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776, October 6, 1972), the National Institutes of Health announces the renewal by the Secretary, HHS, with the concurrence of the Committee Management Secretariat, General Services Administration, of the following committees:

President's Cancer Panel

National Cancer Advisory Board

Authority for the above committees will expire on July 27, 1982, unless the Secretary formally determines that continuance is in the public interest.

Dated: August 6, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80–25105 Filed 8–18–80; 8:45 am]

BILLING CODE 4110–08–M

Public Health Service

First-Year Student Enrollment Decreases for Health Professions Schools

The Department of Health and Human Services announces that the schools of medicine, osteopathy, dentistry, pharmacy, optometry, podiatry, veterinary medicine and public health (health professions schools) may request decreases in their first-year student enrollments that are above the statutory requirements and below the number assured when they accepted Health Professions Construction Grants, Part B, Title VII, Public Health Service Act (42 U.S.C. 293). The affected grantees wishing to decrease their first-year student enrollments may request the decrease by submitting a revision to their approved Health Professions Construction Program application with supporting data. Applications from health professions schools may not seek a decrease below the number assured for the Health Professions Capitation Program and the statutory requirement of the Construction Program.

The affected schools will be individually notified of the procedures to be followed based on this announcement.

Questions concerning this announcement should be directed to: Director, Bureau of Health Facilities, Health Resources Administration, PHS, Center Building, Room 5–22, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: 301–436–7700.

Request for additional information, materials and data regarding this matter should be directed to: Grants Management Officer, Bureau of Health Facilities, Health Resources Administration, Center Building, Room 5–22, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: 301–436–7363.

Dated: August 14, 1980.

John J. Moscato,

Acting Administrator.

[FR Doc. 80–25203 Filed 8–18–80; 8:45 am]

BILLING CODE 4110–83–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI–26]

Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact State (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: Fairway Apartments, Fulton County, Georgia; and Madrona Hills Estates, Willow Creek Basin, adjacent to Eugene, Oregon. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., August 13, 1980.

Richard H. Broun,

Director, Office of Environmental Quality.

Appendix

EIS on Fairway Apartments, Fulton County, Ga.

The Atlanta Area Office of the Department of Housing and Urban Development (HUD) is preparing an Environmental Impact Statement (EIS) on a project described below and solicits comments and information for consideration in the EIS.

Description. The proposed 120 unit Section 8 development will be located on West Campbellton Street approximately 0.50 miles northwest of downtown Fairburn, Fulton County, Georgia. The schedule calls for a DEIS to be prepared in October 1980.

Need. The EIS is being prepared due to HUD's internal NEPA implementation policy (24 CFR 50). The project is in close proximity to Atlanta International Airport, and there may be noise problems. There has also been a considerable amount of public controversy concerning the project.

Alternatives. The EIS will consider the alternatives of funding as proposed, funding with modifications, or rejection of proposal.

Scoping. HUD plans to hold a scoping meeting for the purposes of deciding significant issues and selecting data which the EIS should address., The scoping meeting will be held at 10:00 A.M., Friday August 22, 1980, in Room 1700 of the Richard B. Russell Federal Building, 75 Spring Street, Atlanta, Georgia.

Comments. Comments should be forwarded within 21 days of publication in the Federal Register to Harry Walls, Evironmental Clearance Officer, Room 576, Richard B. Russell Federal Building, 75 Spring Street, Atlanta, Georgia 30303 (or call (404) 221–4036).

EIS on Madrona Hills Estate, Willow Creek Basin, adjacent to Eugene, Oreg.

The Portland Area Office of the U.S. Department of Housing and Urban Development intends to prepare an Environmentral Impact Statement for Madrona Hills Estates, a Planned Community. The proposed project is a phased development of a planned community in the Willow Creek Basin Adjacent to the city ot Eugene, Oregon. Interested agencies, organizations and individuals are invited to provide comments and information which the EIS should address.

Description. The project will include a residential community of mixed single-family subdivisions, townhouse condominiums and multi-family rental apartments (430 acres); a neighborhood Community Center and Conference Facility providing a focus for neighborhood activities (35 acres); a Public Golf Course, open space, parks, jogging and bicycle paths, nature trails and natural preserves (167 acres); plus additional specialized open space park land as an integral part of each development phase. The project site is generally bounded on the north by Highway 126 (West Eleventh Avenue), on the east and south by Willow Creek Road and on the west by Greenhill Road. Annexation and rezoning of the 630 acre site is requested from the City of Eugene for R–1 residential densities of 1–10 units per acre. The proposed development schedule extends over a fifteen year period beginning with construction of a Public Golf Course and residential development in 1980 and ending in 1995.

Need. The HUD thresholds established by 24 CFR 50 §§ 50.31(b) require that an EIS be

developed. It is important to note that only preliminary planning has been completed. EIS supplements will be required for the more detailed planning of each development phase.

Alternatives Perceived. The alternatives to this project are: (1) No action, which permits incremental growth by individual developers; and (2) Development without HUD/FHA participation.

Scoping. This notice invites comments as part of the scoping process of 40 CFR, Parts 1500–1508, §§ 1501.7 to determine the scope of issues to be addressed and for indentifying the significant issues related to the proposed action. We are requesting the Environmental Protection Agency, USDA—Soil Conservation Service and DOT—Federal Highway Administration to be cooperative agencies. A scoping meeting is tentatively scheduled for August 29, 1980 at the Portland Area Office of HUD located at 520 S.W. Sixth Avenue in Portland, Oregon for 10:00 A.M. (Please contact Area Office to find out definite time for meeting.)

Comments. Comments and information should be sent to: Clifford T. Sanfranski, Environmental Clearance Officer, U.S. Department of Housing and Urban Development, 520 S.W. Sixth Avenue, Portland, Oregon 97204. Comments should be written or telephoned to (503) 221–2701 (FTS 423–2701) on or before September 9, 1980.

[FR Doc. 80–25218 Filed 8–18–80; 8:45 am]

Billing Code 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DEIS 80–51]

South Coast and Curry Sustained Yield Units Timber Management Plan: Draft Environmental Impact Statement; Public Hearing and DEIS Availability

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Land Management, has prepared a draft environmental impact statement for the South Coast and Curry Sustained Yield Units. The draft analyzes the impacts of implementing a 10-year timber management plan (along with eight alternatives to that plan) on public lands within the Coos Bay District in southwestern Oregon.

Public reading copies will be available for review at the following locations:

Bureau of Land Management, Office of Public Affairs, 18th and C Streets, NW, Washington, D.C. 20240
Bureau of Land Management, Office of Public Affairs, 729 N.E. Oregon Street, Portland, OR 97208
Bureau of Land Management, Coos Bay District Office, 333 S. Fourth Street, Coos Bay, OR 97420
Oregon State Library, State Library Building, Salem, OR 97310
Oregon State University Library, Government Document Section, Corvallis, OR 97331
Portland State University Library, 724 S.W. Morrison, Portland, OR 97201
Southern Oregon State College Library, Ashland, OR 97520
Southwestern Oregon Community College Library, Coos Bay, OR 97420
Umpqua Community College Library, Roseburg, OR 97420
Bandon Public Library, City Hall, Bandon, OR 97411
Brookings Public Library, 420 Alder, Brookings, OR 97415
University of Oregon Library, Government Document Section, Eugene, OR 97403
Lane Community College Library, Eugene, OR 97401
Gold Beach Public Library, Colvin St., Gold Beach, OR 97444
Coos Bay Public Library, 525 W. Anderson, Coos Bay, OR 97420
Douglas County Library, County Courthouse, Roseburg, OR 97470
North Bend Public Library, 1925 McPherson Ave., North Bend, OR 97459.

A limited number of copies are available upon request from the Bureau of Land Management, Oregon State Office, or the Coos Bay District Office at the above addresses.

Oral and/or written comments will be received at formal hearings held at 1:00 p.m. and 7:00 p.m. on October 1, 1980 at the Public Library auditorium in Coos Bay, Oregon.

ADDRESS: Written comments on the Draft EIS may be sent to: State Director (911.1), Bureau of Land Management, Oregon State Office, P.O. Box 2965, Portland, OR 97208.

All comments must be postmarked no later than October 16, 1980.

For further information contact: Richard Bonn, Statement Leader, Oregon State Office, Telephone: (503) 231–6953.

Dated: August 11, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80–25113 Filed 8–18–80; 8:45 am]

BILLING CODE 4310–84–M

[NM 40873]

New Mexico; Notice of Application

August 5, 1980.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the act of November 16, 1973 (87 Stat. 576), Conoco, Inc. has applied for one 6-inch and one 4-inch natural gas pipelines right-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 18 S., R. 31 E.,
Sec. 1: NE¼SE¼;
Sec. 11: SE¼SE¼;
Sec. 12: NW¼NE¼, NE¼NW¼, S½NW¼, W½SW¼;
Sec. 14: N½NE¼, SW¼NE¼, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 15: SE¼SE¼;
Sec. 22: N½NE¼, SW¼NE¼, SE¼NW¼, E½SW¼;
Sec. 27: NE¼NW¼, W½W½;
Sec. 34: S½NE¼, W½NW¼, N½SW¼, NW¼SE¼;
Sec. 35: S½NW¼, E½SW¼.
T. 17 S., R. 32 E.,
Sec. 28: S½NE¼NE¼NW¼, S½NE¼NW¼, E½SW¼;
Sec. 29: SE¼NE¼, N½SE¼, SW¼SE¼;
Sec. 31: N½SE¼, SW¼SE¼.
T. 18 S., R. 32 E.,
Sec. 6: Lot 5, 6, E½NW¼.

These pipelines will convey natural gas across 10.585 miles of public land in Eddy and Lea Counties, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

James H. O'Connor,

District Manager.

[FR Doc. 80–25204 Filed 8–18–80; 8:45 am]

BILLING CODE 4310–84–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 August 8, 1980. Pursuant to § 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, DC 20243. Written comments should be submitted by September 3, 1980.

Sarah G. Oldhan,

Acting Chief, Registration Branch.

FLORIDA

Dade County

Miami, *Trinity Episcopal Cathedral*, 464 NE. 16th St.

Duval County

Jacksonville, *Masonic Temple*, 410 Broad St.

ILLINOIS

Sangamon County

Rochester, *Taft Farmstead*, SR 3

KENTUCKY

HISTORIC FIREHOUSES OF LOUISVILLE THEMATIC RESOURCES. Reference—see individual listings under Jefferson County.

Jefferson County

Louisville, *Fire Department Headquarters (Historic Firehouses of Louisville Thematic Resources)* 1135 W. Jefferson St.
Louisville, *Hook and Ladder Company No. 2 (Historic Firehouses of Louisville Thematic Resources)* 221 S. Hancock St.
Louisville, *Hook and Ladder Company No. 3 (Historic Firehouses of Louisville Thematic Resources)* Frankfort Ave. and Pope St.
Louisville, *Hook and Ladder Company No. 4 (Historic Firehouses of Louisville Thematic Resources)* 2301 Jefferson St.
Louisville, *Hook and Ladder Company No. 5 (Historic Firehouses of Louisville Thematic Resources)* 1824 Garland Ave.
Louisville, *Steam Engine Company No. 2 (Historic Firehouses of Louisville Thematic Resources)* 617–621 W. Jefferson St.
Louisville, *Steam Engine Company No. 3 (Historic Firehouses of Louisville Thematic Resources)* 802—804 E. Main St.
Louisville, *Steam Engine Company No. 4 (Historic Firehouses of Louisville Thematic Resources)* 1024 Logan St.
Louisville, *Steam Engine Company No. 4 (Historic Firehouses of Louisville Thematic Resources)* 1617 W. Main St.
Louisville, *Steam Engine Company No. 7 (Historic Firehouses of Louisville Thematic Resources)* 821 S. 6th St.
Louisville, *Steam Engine Company No. 10 (Historic Firehouses of Louisville Thematic Resources)* 1419 E. Washington.
Louisville, *Steam Engine Company No. 11 (Historic Firehouses of Louisville Thematic Resources)* 1122 Rogers.
Louisville, *Steam Engine Company No. 18 (Historic Firehouses of Louisville Thematic Resources)* 2600 S. 4th St.
Louisville, *Steam Engine Company No. 20 (Historic Firehouses of Louisville Thematic Resources)* 1330 Bardstown Rd.
Louisville, *Steam Engine Company No. 20 (Historic Firehouses of Louisville Thematic Resources)* 1735 Bardstown Rd.
Louisville, *Steam Engine Company No. 21 (Historic Firehouses of Louisville Thematic Resources)* 1761 Frankfort Ave.
Louisville, *Steam Engine Company No. 22 (Historic Firehouses of Louisville Thematic Resources)* 37th and Broadway.

LOUISIANA

East Carroll Parish

Lake Providence, *Lake Providence Multiple Resource Area (Partial Inventory).* This area includes: Lake Providence, *Lake Providence Historic District*, Lake, Levee, and Scarborough Sts. (previously listed in the National Register 12–6–79); *Lake Providence Residential Historic District*, Lake and Davis Sts.; *Arlington Plantation*, 214 Arlington; *Fischer House*, 15 Lake St.; (previously listed in the National Register 1–11–80).
Nelson House, 407 Davis St.; *Old Courthouse Square*, 1st and Hoad Sts.

East Feliciana Parish

Gurley vicinity, *Oakland Plantation House*, W of Gurley.

Lincoln Parish

Dubach vicinity, *Autrey House*, 1 mi. W of Dubach of LA 152.

Ouachita Parish

West Monroe, *Block, J. S., Building*, 101 N. Grand St.

Pointe Coupee Parish

New Roads vicinity, *Pointe Coupee Parish Museum*, 6 mi. SW of New Roads on LA 1.

MARYLAND

Somerset County

Princess Anne, *Princess Anne Historic District*, Off MD 413.

MASSACHUSETTS

Middlesex County

Sudbury, *Haynes-Smith House*, Water Row.

MICHIGAN

Oakland County

Davisburg vicinity, *Everts, Caleb, House*, 8880 Hickory Ridge Rd.

Wayne County

Detroit, *Fisher and New Center Buildings*, 7430 2nd Ave. and 3011 W. Grant Blvd.
Detroit, *Palmer Park Apartment Buildings Historic District*, Roughly bounded by Pontchartrain Blvd., McNichols Rd., and Convington Dr.
Detroit, *Stearns, Frederick, Building*, 6533 E. Jefferson Ave.
Detroit, *West Village District*, Roughly bounded by Jefferson, Kercheval, Parker and Seyburn Aves.
Livonia, *Everitt, Orson, House*, 39040 W. Seven Mile Rd.

MINNESOTA

CUYUNA IRON RANGE MUNICIPALLY-OWNED ELEVATED METAL WATER TANKS. Reference—see individual listings under Crow Wing County.

Cass County

Cass Lake vicinity, *Great Northern Railway Company Bridge*, SW of Cass Lake off MN 371.

Crow Wing County

Crosby, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks)* 1st Ave.
Cuyuna, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks)* North St.
Deerwood, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks)* 211 Maple St.
Ironton, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks)* 7th St.
Trommald, *Elevated Metal Water Tank (Cuyuna Iron Range Municipally-Owned Elevated Metal Water Tanks).*

Hennepin County

Minneapolis, *New Century Mill*, 5th and Oaks Sts.

Lincoln County

LINCOLN COUNTY MULTIPLE RESOURCE AREA (Partial Inventory). This area includes: Arco, *Pedersen Filling Station*, Laurel and Hawthorn Sts.; Ivanhoe, *Lincoln County Courthouse and Jail*, Rotherwood St.; Lake Benton, *Osbeck, Ernest, House*, 106 S. Fremont St.; Lake Benton vicinity, *Drammen Farmers' Club*, SR 13; Tyler, *Lincoln County Fairgrounds*, Strong and Marsha Sts.; *Tyler Public School*, Strong St.

Olmsted County

Dover vicinity, *Krause, Christoph, Farmstead*, S of Dover on SR 30.
Stewartville, *Sears, Richard W., Birthplace*, 305 N. Main St.
Stewartville vicinity, *Pleasant Grove Masonic Lodge No. 22 A.F. and A.M.*, E of Stewartville.
Rochester, *Chicago Great Western Railroad Company Depot*, 19 2nd St., SE.
Rochester, *Cutting, Lucius, Barn*, 3210 19th St., NW.
Rochester, *Hotel Zumbro*, 101 1st Ave., SW.
Rochester, *Rochester Armory*, 121 N. Broadway.
Rochester, *Whiting, Timothy A., House*, 225 1st Ave., SW.

MISSOURI

Warren County

Warrenton, *Schowengerdt, Ernst, House*, 308 E. Boone's Lick Rd.

MONTANA

Hill County

Havre, *Young-Almas House*, 419 4th Ave.

NEBRASKA

Sarpy County

Papillion, *Sautter, John, Farmhouse*, 220 N. Jefferson St.

NEW JERSEY

Hudson County

Jersey City, *St. Patrick's Parish Complex*, Grand St., Ocean and Bramhall Aves.

Middlesex County

Perth Amboy, *McCormick Tenant House*, 274 Front St.

NEW MEXICO

Bernalillo County

Albuquerque, *Kelvinator House*, 324 Hermosa Dr., SE.
Albuquerque, *Pacific Desk Building*, 213–215 Gold Ave., SW.

Grant County

Membres vicinity, *Mattocks Site.*

Luna County

Deming vicinity, *Upton Site.*

NORTH CAROLINA

Cumberland County

Fayetteville, *North Carolina Arsenal Site,* Off NC 87.

OREGON

Multnomah County

Portland, *West's Block,* 701—707 SE. Grand Ave.

Umatilla County

Pendleton, *Sommerville, Edgar, House,* 104 SE. 5th St.

Union County

Elgin, *Elgin City Hall and Opera House,* Albany and N. 8th Sts.

SOUTH CAROLINA

Aiken County

Aiken, *Joye Cottage,* 463 Whiskey Rd. and 129 1st Ave.

Spartanburg County

Spartanburg, *Morgan, Daniel, Monument,* Main and Church Sts.

UTAH

Sanpete County

Ephraim, *Sorensen, Fredrick Christian, House,* E. Center St.
Manti, *Billings-Hougaard House,* Off U.S. 89.
Manti, *Johnson, Robert, House,* Off U.S. 89.
Manti, *Jolley, Francis Marion, House,* Off U.S. 89.

VERMONT

Rutland County

Rutland, *Clementwood,* Clement Rd.
Rutland, *St. Peter's Church and Mount St. Joseph Convent Complex,* Convent Ave., Meadow and River Sts.

WISCONSIN

Racine County

Racine, *Hall, Chauncey, Building,* 338—340 Main St.
Racine, *Racine Depot,* 1402 Liberty St.

Sheboygan County

Kohler, *Riverbend,* Lower Falls Rd.

The following is a list of corrections to properties listed in the "Federal Register," Part II, March 18, 1980. Additional corrections may appear in subsequent updates.

ARIZONA

Pinal County

Sacaton vicinity, *Ha-ak Va-ak Intaglio Site* (9-6-79) (previously listed as Ha-ak Site).

CONNECTICUT

Fairfield County

Monroe, *Hawley, Thomas, House,* 514 Purdy Hill Rd. (4-11-79) (previously listed in Monroe County).

DISTRICT OF COLUMBIA

Washington

Lenthall Houses, 606 and 610 21st St., NW. (6-30-80) (previously listed at 612 and 614 19th St., NW.

SOUTH CAROLINA

Greenwood County

Greenwood vicinity, *Scotch Cross House,* 2 mi. S of Greenwood on U.S. 25 (3-30-73) (previously listed as Brooks, J. Wesley, House).

Oconee County

Westminster, *Westminster Depot,* 129 Main St. (11-7-76) (previously listed as Southern Railway Passenger Station).

TENNESSEE

Hamilton County

Chattanooga, *Brabson-Loveman House,* 407 E. 5th St. (4-11-73) (previously listed as Brabson House).

Knox County

Knoxville, *Holston National Bank,* 531 S. Gay St. (10-2-79) (previously listed in SD).

Moore County

Lynchburg, *Moore County Courthouse and Jail,* Court Sq. (9-26-79) (previously listed in SD).

Shelby County

Memphis, *Hayley, Patrick H., House,* 604 Vance Ave. (10-10-79) (previously listed in SD).
Memphis, *Pinch-North Main Commerical District,* Roughly bounded by N. Front and N. 2nd Sts., Commerce and Auction Aves. (10-18-79) (previously listed in SD).

The following properties were omitted from the listing in the "Federal Register," Part II, March 18, 1980.

CALIFORNIA

San Francisco County

San Francisco, *Phelps, Abner, House, 1111 Oak St. (5-23-79) HABS.*

Santa Barbara County

Santa Barbara vicinity, *San Miguel Island Archeological District* (9-12-79).
Santa Barbara vicinity, *Santa Barbara Island Archeological District* (9-12-79).

Ventura County

Port Hueneme vicinity, *Anacapa Island Archeological District* (9-12-79).

FLORIDA

Dade County

Miami Beach, *Miami Beach Architectural District,* Roughly bounded by Atlantic Ocean, Miami Beach Blvd., Alton Rd. and Collins Canal (5-14-79).

INDIANA

Allen County

Fort Wayne, *Strunz, Christian G., House,* 333 E. Berry St. (10-4-79).

St. Joseph County

Mishawaka, *Kamm and Schellinger Brewery,* 100 Center St. (10-11-79).

Vanderbaugh County

Evansville, *Alhambra Theatorium,* 50 Adams Ave. (10-1-79).
Evansville, *Greyhound Bus Terminal,* 102 NW. 3rd St. (10-1-79).
Evansville, *McCurdy Building (Sears, Roebuck and Company Building)* 101 NW. 4th St. (10-1-79).

KENTUCKY

Bell County

Middlesboro, *American Association, Limited, Office Building,* 2215 Cumberland Ave. (12-29-78).

Caldwell County

Princeton, *Champion-Shepherdson Building,* 115 E. Main St. (12-28-78).

Fayette County

Athens, *Athens Historic District,* Athens-Boonesboro Pike (10-11-79).
Lexington, *Price, Pugh, House,* 2245 Liberty Rd. (9-25-79).

Jefferson County

Anchorage vicinity, *Dorsey-O'Bannon'Hebel House,* E of Anchorage at 13204 Factory Lane (9-25-79).
Louisville, *House of Weller,* 121 W. Main St. (9-26-79).

Lincoln County

Stanford vicinity, *Walnut Meadows,* SE of Stanford on U.S. 150 (12-22-78).

Nelson County

Lenore vicinity, *Archeological Site 15 Ne 3* (9-27-79).

MAINE

Anroscoggin County

Lewiston, *Healey Asylum,* 81 Ash St. (10-1-79).
Lisbon vicinity, *Cushman Tavern,* NE of Lisbon on ME 9 (10-9-79).

Cumberland County

Portland, *St. Lawrence Church,* 76 Congress St. (10-1-79).

Kennebec County

Sidney vicinity, *Powers House,* S of Sidney on ME 104 (10-1-79).

Lincoln County

Medomak vicinity, *Weston, Daniel, Homestead,* W of Medomak on ME 32 (10-1-79).

Penobscot County

Bangor, *Hamlin, Hannibal, House,* 15 5th St. (10-9-79).

Piscataquis County

Guilford, *Hudson, H., Law Office,* Hudson Ave. (10-9-79).

Washington County

Machias, *Perry, Clark, House,* Court St. (10-9-79).

York County

Kittery, *Rice Public Library*, 8 Wentworth St. (10–1–79).
Kittery Point, *Bray House*, Pepperell Rd. (10–9–79).
North Waterboro vicinity, *Elder Grey Meetinghouse*, N of North Waterboro (10–9–79).
Saco, *Saco City Hall, 300 Main St. (10–9–79)*.

MARYLAND

Washington County

Eakles Mills vicinity, *Snively Farm*, N of Eakles Mills on Mt. Briar Rd. (9–24–79).

MISSOURI

Boone County

Columbia, *Wabash Railroad Station and Freight House*, 126 N. 10th St. (10–11–79).

Buchanan County

St. Joseph, *Missouri Theater and Missouri Theater Building*, 112–128 S. 8th St. and 713–721 Edmond St. (10–11–79).

Cape Girardeau County

Cape Girardeau, *Glenn House*, 325 S. Spanish St. (10–11–79).

Carroll County

Carrollton, *Carroll County Sheriff's Quarters and Jail*, 101 W. Washington St. (10–11–79).

Clark County

Wayland vicinity, *Sickles Tavern*, NW of Wayland on MO B (10–22–79).

Jackson County

Kansas City, *Kansas City Athenaeum*, 900 E. Linwood Blvd. (10–11–79).

Lafayette County

Lexington, *Waddell House*, 1704 South St. (10–11–79).

Macon County

Macon, *Blees Military Academy*, U.S. 63 (10–11–79).

Nodaway County

Maryville, *Nodaway County Courthouse*, 3rd and Main Sts. (10–11–79).

Ray County

Richmond, *Ray County Courthouse*, Off MO 10 and MO 13 (10–11–79).

St. Charles County

St. Charles *Marten-Becker House*, 837 First Capitol Dr. (10–11–79).

St. Louis (independent city)

Mayfair Hotel, 806 St. Charles Ave. (9–17–79).
St. Liborius Church and Buildings, 1835 N. 18th St. (10–11–79).
St. Louis vicinity, *Pappas, Theodore, A., House*, 865 Masonridge Rd. (2–14–79).

PENNSYLVANIA

Allegheny County

Pittsburgh, *Allegheny Observatory*, 159 Riverview Ave. (6–22–79).

Bucks County

Spinnerstown, *Spinner House*, Spinnerstown and Sleepy Hollow Rds. (6–22–79).

Pennsylvania Railroad Bridge. Reference—(see Mercer County, NJ).
Erwinna, *Stover Mill*, PA 32 (10–18–79).

Centre County

Milesburg vicinity, *Harmony Forge Mansion*, S of Milesburg on PA 144 (10–16–79).
Philipsburg, *Rowland Theatre*, Front St. (10–18–79).

Chester County

West Chester, *Everhart, William, Building*, 28 W. Market St. (7–17–79).

Dauphin County

Hummelstown, *Matlack, Enoch, House*, 250 E. Main St. (6–22–79).

Indiana County

Indiana, *Old Indiana County Jail and Sheriff's Office*, 6th St. and Nixon Ave. (9–27–79).

Lancaster County

Lancaster, *Hager Building*, 25 W. King St. (10–16–79).
Lancaster, *Steinman Hardware Store*, 26—28 W. King St. (10–18–79).

Lebanon County

Campbelltown, *Stauffer, Dr. B., House*, 192 W. Main St. (6–22–79).
Schaefferstown, *Erpff, Philip, House*, S. Market St. (11–20–79).

Montgomery County

Cheltenham vicinity, *Wall House (The Ivy)* W of Cheltenham on Old York Rd. (6–28–79).
Hatboro, *Union Library Company*, 243 S. York Rd. (11–20–79).
Jenkintown, *Jenkins' Town Lyceum Building*, Old York and Vista Rds. (10–16–79).

Northumberland County

Watsontown vicinity, *Hopper-Snyder Homestead*, NE of Watsontown off SR 49061 (7–3–79).

Philadelphia County

Philadelphia, *Hamilton Family Estate*, 4039—4041 Baltimore Ave. and 4000—4018 Pine St. (6–22–79).
Philadelphia, *Old Federal Reserve Bank*, 925 Chestnut St. (6–28–79) HABS.
Philadelphia, *Union League of Philadelphia*, 140 S. Broad St. (6–22–79).

Westmoreland County

West Newton, *Plumer House*, Vine and S. Water St. (12–6–79).

The following properties have been demolished and/or removed from the "National Register of Historic Places." This action does not necessarily modify the applicability, if any, of provisions of section 2124 of the Tax Reform Act.

CALIFORNIA

San Diego County

San Diego, *Klauber, Melville, House*, 3060 6th Ave. (11–13–74) (demolished).

KENTUCKY

Nicholas County

Millersburg vicinity, *Thompson, Henry, Stone House*, 2.5 mi. N of Millersburg on Arthur Pike (6–23–75) (demolished).

MASSACHUSETTS

Barnstable County

Barnstable, *Barnstable Fair Hall*, 3512 Main St. (3–7–79) (demolished).

NORTH DAKOTA

Burleigh County

Bismarck, *Bismarck Public Library*, 519 E. Thayer Ave. (12–7–77) (demolished).
Bismarck, *Fire Hall*, 517 E. Thayer Ave. (2–14–78) (demolished).

WISCONSIN

Bayfield County

Port Wing, *South Shore Public School*, Grand Ave. and WI 13 (11–15–78) (demolished).

[FR Doc. 80–24756 Filed 8–18–80; 8:45 am]
BILLING CODE 4310–03–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC–120]

Denial of Petition To Relax Entry on the Transportation of Small Shipments Weighing 500 Pounds or Less

AGENCY: Interstate Commerce Commission.

ACTION: Notice of discontinuance of rulemaking proceeding.

SUMMARY: The Commission previously published a notice of the filing of a petition seeking institution of a rulemaking proceeding for the purpose of possibly making a general finding that the public convenience and necessity require the transportation of small shipments of general commodities, with the usual exceptions, weighing 500 pounds or less, and to establish new regulations allowing expedited certification and pricing flexibility for carriers wishing to transport these small shipments. Petitioner's proposal envisioned the issuance of a master certificate of public convenience and necessity authorizing this transportation by any necessity authorizing this transportation by any carrier which demonstrates its fitness to conduct these operations. The Motor Carrier Act of 1980 specifically prohibits the master certificate approach to granting operating authority. Accordingly, the petition is denied and this proceeding is discontinued.

FOR FURTHER INFORMATION CONTACT: Thomas J. Barry, (202) 275–7982 or Edward E. Guthrie, (202) 275–7691.

SUPPLEMENTARY INFORMATION: By petition filed August 8, 1978 (published at 43 FR 37329 (August 22, 1978)), Trailways, Inc., a motor common carrier of passengers, their baggage, and express, requested the Commission to propose rules which would make a general finding that the public convenience and necessity require the transportation of small shipments of general commodities, with the usual exceptions, weighing 500 pounds or less, and to establish new regulations allowing expedited certification and pricing flexibility for carriers wishing to transport these small shipments. Petitioner proposed that a master certificate be issued, based upon the general finding of public convenience and necessity, authorizing new or existing carriers to provide any and all of the services which the small shipper might demand, including forwarding, consolidation, pickup and delivery, and over-the-road transportation. To perform these services under the proposed master certificate, an applicant would have oly to establish that it is fit, financially and otherwise, to conduct small shipments service.

Section 5 of the Motor Carrier Act of 1980 (Pub. L. 96–296, 94 Stat. 795), added a new subsection (b) to 49 U.S.C. 10922 which, as pertinent, provides as follows:

(b)(3) The Commission may not make a finding relating to public convenience and necessity under paragraph (1) of this subsection which is based upon general findings developed in rulemaking proceedings.

In adding this provision to the Interstate Commerce Act, Congress clearly intended to prevent the Commission from pursuing the master certificate approach.

On the other hand, by adopting subsection (b)(4)(D) to this section Congress provided abbreviated (fitness only) licensing provisions for the transportation of shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds. Applications to provide this service are governed by our interim rules in Ex Parte No. 55 (Sub-No. 43), 45 FR 45534, and Ex Parte No. 55 (Sub-No. 43A), 45 FR 45545. Interested persons may consult these documents or contact their nearest field office.

It is the intention of this Commission to implement and administer as fully and expeditiously as possible the will of Congress as expressed in the new legislation. Accordingly, the petition is denied and this proceeding is discontinued.

This decision does not significantly affect the quality of the human environment or the conservation of energy resources.

This notice is issued under authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: August 7, 1980.

By the Commission, Chairman Gaskins, Vice-Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-25089 Filed 8-18-80; 8:45 am]

BILLING CODE 7035-1-M

[Volume No. OP 2-012]

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 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 note problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-010

Decided: August 7, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 96750 (Sub-6F), filed August 1, 1980. Applicant: TRUCKING UNLIMITED, 9215 Sorensen Ave., Santa Fe Springs, CA 90670. Representative: Bobbie F. Albanese, 13215 E. Penn Street, Suite 310, Whittier, CA 90602. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Note.—Issuance of a certificate in this proceeding shall cancel Certificate of Registration MC 96750 (Sub-2).

MC 120761 (Sub-65F), filed July 30, 1980. Applicant: NEWMAN BROS. TRUCKING COMPANY, P.O. Box 18728, Fort Worth, TX 76118. Representative: A. William Brackett, 1108 Continental Life Bldg., Forth Worth, TX 76102. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OPI-013

Decided: August 11, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 119641 (Sub-184F), filed August 5, 1980. Applicant: RINGLE EXPRESS, INC., P.O. Box 335, Moline, IL 61625.Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 12571 (Sub-9F), filed August 6, 1980. Applicant: H&W CARRIERS, INC., Box 73, Camargo, IL 61919. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 130981F, filed August 1, 1980. Applicant: HALE FREIGHT SYSTEMS, INC., 1404 Clinton St. Baltimore, MD 21224. Representative: Mel P Booker, Jr., 110 South Columbus St., Alexandria, VA 22314. To arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 145610 (Sub-7F), filed August 5, 1980. Applicant: TRUCK AIR OF GEORGIA, INC., 576 Lake Mirror Road, College Park, GA 30349. Representative: Robert E. Born, Suite 508, 1447 Peachtree St., N.E., Atlanta, GA 30309. Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S. and (2) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 149400F, filed July 23, 1980. Applicant: JOHN CHEESEMAN TRUCKING, INC., 501 North First St., Fort Recovery, OH 45816. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Volume No. OPI–014

Decided: August 12, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 48221 (Sub-28F), filed August 1, 1980. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Ave., Omaha, NE 68107. Representative: Greg A. Dickinson, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. 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, between points in IA, and those in Douglas, Lancaster and Saline Counties, NE, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NV, NM, OH, OK, OR, TN, TX, UT, WA, WI, and WY.

Note.—Upon issuance of a certtificate in this proceeding, applicant's certificates in MC 48221 (Subs-4 and 22), will be cancelled.

MC 78400 (Sub-88F), filed August 7, 1980. Applicant: BEAUFORT TRANSFER COMPANY, P.O. Box 151, Gerald, MO 63037. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Over *regular routes,* transporting *general commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Branson, and Kansas City, MO, (a) from Branso over U.S. Hwy 65 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City, and return over the same route, serving the junction of Interstate Hwy 44 and U.S. Hwy 65 for the purpose of joinder only, (b) from Bronson over U.S. Hwy 65 to junction U.S. Hwy 50, then over U.S. Hwy 50 to Kansas City and return over the same route, serving the junction of U.S. Hwy 65 and U.S. Hwy 50 for the purpose of joinder only, (c) from Branson over U.S. Hwy 65 to Springfield, MO, then over MO Hwy 13 to junction MO Hwy 7, then over MO Hwy 7 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Kansas City and return over the same route, and (d) from Branson over U.S. Hwy 65 to junction U.S. Hwy 54, then over U.S. Hwy 54 to Jefferson City, MO, then over U.S. Hwy 50 to Kansas City and return over the same route, serving the termini for the purpose of joinder only, serving in (a) through (d) the unincorporated area of Silver Dollar City on MO Hwy 265 and the facilities of Blakemore Lure Co. on U.S. Hwy 65, both near Branson, MO, as off-route points; and (2) between Branson, MO, on the one hand, and, on the other, St. Louis, MO, from Branson over U.S. Hwy 65 to junction Interstate Hwy 44, then over Interstate Hwy 44 to St. Louis and return over the same route, serving the junctions of Interstate Hwy 44 and U.S. Hwy 50, and Interstate Hwy 44 and MO Hwy 100 for the purpose of joinder only, and serving the unincorporated area of Silver Dollar City on MO, Hwy 265 and the facilities of Blakemore Lure Co., on U.S. Hwy 65 both near Branson, MO, as off-route points.

Note.—Applicant intends to tack this authority with its existing authority.

MC 115831 (Sub-17F), filed August 6, 1980. Applicant: TIDEWATER TRANSIT CO., INC., P.O. Box 189, Kinston, NC 28501. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *fertilizer and fertilizer materials,* from points in New Hanover County, NC, to points in DE, MD, PA, VA and WV.

MC 119741 (Sub-274F), filed August 6, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *vehicle body sealer compounds, cleaning compounds, rust preventing compounds, petroleum oil, petroleum grease, petroleum wax, roofing cement, adhesive cement, resin, surface coated papers, wrapping paper, gummed paper, and masking tape,* between points in Cook and Will Counties, IL, Cullman County, AL, and Luzerne County, PA, on the one hand, and, on the other, points in the U.S.

MC 124711 (Sub-110F), filed August 8, 1980. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting *cement,* from points in OK, to points in AR, KS, and MO.

MC 136181 (Sub-2F), filed July 30, 1980. Applicant: MARINE TRANSPORT, INC., 7737 Hampton Blvd., Norfolk, VA 23505. Representative: Russell R. Sage, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. Transporting *general commodities,* between Norfolk, VA, on the one hand, and, on the other, points in VA and NC, and those in Bronx, Kings, New York, Queens, and Richmond Counties, NY, and Hudson, Middlesex, Essex, and Union Counties, NJ, Charleston, SC, and Baltimore, MD, restricted to traffic having a prior or subsequent movement by water. Condition: To the extent that the certificate in this proceeding authorize the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

MC 148400 (Sub-3F), filed August 5, 1980. Applicant: ORVILLE E. VAUGHAN AND KATHLEEN V. VAUGHAN d.b.a. SUN VALLEY TANK LINES, 64 Laporte Drive, Mars, PA 16046. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Jacob Stern & Sons, Inc.; Snow Commodities Co., Inc.; Acme Hardesty Co., Inc.; Kaber Commodities Company; and Murro Chemical Co., Inc., all of Jenkintown, PA.

MC 150010 (Sub-1F), filed August 6, 1980. Applicant: HENRY FAIRCLOTH TRANSFER, INC., 521 N. John Street, Goldsboro, NC 27530. Representative: Lindsay C. Warren, Jr., P.O. Box 1616, Goldsboro, NC 27530. Transporting *general commodities* (except classes A and B explosives, and motor vehicles), between Asheville, Charlotte, Fayetteville, Greensboro, Raleigh, Rocky Mount, and Smithfield, NC, on the one hand, and on the other, points in NC, restricted to traffic having a prior or subsequent movement by rail.

MC 151411 (Sub-1F), filed August 1, 1980. Applicant: DON HOLLAND & ASSOCIATES, INC., P.O. Box 1228, Lexington, NC 27292. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. Transporting *plastic film and plastic sheeting,* between points in the U.S., under continuing contract(s) with Southern Film Extruders, Inc., of High Point, NC.

MC 151470F, filed August 6, 1980. Applicant: STYLINE CORPORATION, 431 Fourth Street, Huntingburg, IN 47542. Representative: Robert H. Menke, Jr. (same address as applicant). Transporting (1) *furniture,* and (2) *parts and accessories* for furniture, between points in the U.S., under continuing contract(s) with Ferdinand Furniture Company, of Huntingburg, IN.

[FR Doc. 80-25069 Filed 8-18-80; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP1-014]

Decision-Notice

Decided: August 12, 1980

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10,000.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 2, 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 notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

MC 82841 (Sub-291F), filed August 11, 1980. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 149041 (Sub-1F), filed July 31, 1980. Applicant: TANK TRANSPORT, INC., 9325 North 107th St., Milwaukee, WI 53224. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP2-012

Decided: August 6, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 115162 (Sub-534F), filed July 30, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting (1) *petroleum and petroleum products, additivies, and agricultural chemicals,* from points in Montgomery County, AL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture, and distribution of the commodities in (1) above, in the reverse direction.

MC 123872 (Sub-119F), filed July 30, 1980. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Allen E. Bowmen (same address as applicant). Transporting (1) (a) *Cotton and synthetic yarn,* (b) *cotton and synthetic rope and twine,* and (c) *tape,* and (2) *materials and supplies used in the manufacture of commodities listed in (1) above* (except commodities in bulk), between points in Alexander, Burke, Caldwell, and Catawba Counties, NC, and De Kalb County, GA, on the one hand, and, on the other, points in AZ, CA, CO, GA, IA, ID, IL, KS, MN, MO, MT, NC, NE, ND, NM, NV, OK, OR, SD, TX, UT, WA, WI, and WY.

MC 127042 (Sub-301F), filed July 30, 1980. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Joseph B. Davis (same address as applicant). Transporting *foods,* between points in Finney County, KS, and those points in the U.S. in and west of MI, OH, KY, MO, AR, and LA.

MC 138882 (Sub-371F), filed July 30, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Henderson Rd., Troy, AL 36081. Representative: John J. Dykema (same address as applicant). Transporting (1) *beverages* (except in bulk, in tank vehicles), between St. Louis, MO, on the one hand, and, on the other, points in AL, GA, and TN; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of beverages (except commodities in bulk, in tank vehicles), between points in GA, on the one hand, and, on the other, points in AL and TN.

Volume No. OP2–017

Decided: August 7, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 25823 (Sub-10F), filed July 28, 1980. Applicant: WERCH TRUCKING COMPANY, INC., Route No. 2, Box 113, Berlin, WI 53923. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Transporting: *Lignin pitch* from points in WI to points in the U.S. (except AK and HI).

MC 88203 (Sub-13F), filed July 28, 1980. Applicant: OTIS WRIGHT & SONS, INC., 700 East Wayne St., P.O. Box 277, Lima, OH 45802. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with The Procter & Gamble Company and its subsidiaries, of Cincinnati, OH.

MC 115162 (Sub-535F), filed August 1, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting *(1) plumbing goods and fixtures,* and *(2) materials, supplies and equipment used in the manufacture, sale and distribution of commodities named in (1) above,* between Cook County, IL; Rhea County, TN; and Robeson County, NC; on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 115353 (Sub-46F), filed July 30, 1980. Applicant: LOUIS J. KENNEDY TRUCKING COMPANY, 342 Schuyler Avenue, Kearny, NJ 07032. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting: *(1) steel and steel articles, (2) materials, supplies and equipment* used in the manufacture and distribution of commodities in (1) (except in bulk), between points in the U.S. (except AK and HI) under continuing contract(s) with Raritan River Steel Co. of Perth Amboy, NJ.

MC 134783 (Sub-68), filed July 30, 1980. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. 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 commodities in bulk), from the facilities of Iowa Beef Processors, Inc. at or near Holcomb, KS to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, AR, LA, OK, TX, AL, FL, GA, MS, NC, SC, TN, and DC.

MC 139193 (Sub-116F), filed July 31, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K St. NW., Washington, DC 20006. Transporting *meats, meat products, meat byproducts, dairy products, articles distributed by meat-packing houses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers,* as described in Sections A, B, C, and D, Appendix I to the report in *Descriptions in Motor Carrier Certificates,* (61 M.C.C. 209 and 766), between points in the U.S., under continuing contract(s) with John Morrell & Co., of Chicago, IL.

MC 143383 (Sub-8F), filed August 4, 1980. Applicant: DALE E. NICHOLSON, P.O. Box 97, Potosi, MO 63664. Representative: Dale E. Nicholson (same address as applicant). Transporting *lead, zinc, and copper concentrates,* in bulk, from Corridon, MO, to Glover, MO.

MC 144293 (Sub-16F), filed August 1, 1980. Applicant: DUANE MCFARLAND, P.O. Box 1006, Austin, MN 55912. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting (1) *Foodstuffs* and (2) *such commodities* as are dealt in by meat-packing houses, between points in Mower, Hennepin and Steele Counties, MN, Dodge and Scottsbluff Counties, NE, Webster, Kossuth, Marion and Wapello Counties, IA, and Rock County, WI, on the one hand, and, on the other, points in IL, IA, MN, NE and WI.

MC 144622 (Sub-180F), filed August 1, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J.B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting: *Foods,* between points in Dallas County, TX, on the one hand, and, on the other, points in AR, LA, NM, and OK.

MC 146773 (Sub-3F), filed August 4, 1980. Applicant: CON–EX, INC., 369 Mast Rd., Manchester, NH 03102. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. 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 ME, NH, VT, and MA, on the one hand, and, on the other, points in the U.S. (except AK, CT, DE, HI, ME, MD, MA, NH, NJ, NY, PA, RI, VA, VT, WV, and DC).

MC 150103 (Sub-8F), filed August 1, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington St., Jefferson, WI 53549. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. Transporting *synthetic stapel fiber and synthetic yarn,* between points in the United States, under continuing contract(s) with Borg Textile Corporation, a division of Bunker Ramo, of Jefferson, WI.

Volume No. OP2–019

Decided: August 8, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 69292 (Sub-11F), filed August 5, 1980. Applicant: ATLAS TRANSPORTATION, INC., P.O. Box 4028, 8100 Stansbury Rd., Baltimore, MD 21222. Representative: Charles F. Perkinson (same address as applicant). Transporting (1) *contractor's equipment and supplies,* (2) commodities which, because of size or weight, require the use of special equipment, (3) *machinery and machinery parts,* (4) *metals,* and (5) *iron and steel articles,* between points in DE, MD, NJ, NY, NC, PA, VA, and DC. Condition: Issuance of a certificate here is subject to prior or coincidental cancellation at applicant's written request of Certificates MC 69292, issued December 11, 1963, and MC 69292 (Sub-7F), issued April 25, 1980.

MC 107162 (Sub-73F), filed August 6, 1980. Applicant: NOBLE GRAHAM TRANSPORT, INC., R.R. 1, Brimley, MI 49715. Representative: Michael S. Varda, 121 S. Pinckney St., Madison, WI 53703. Transporting *building and insulating materials* (except iron and steel articles), from Chicago, Rockdale, and Waukegan, IL and Minneapolis, MN, to points in MI and WI.

MC 115162 (Sub-536F), filed August 4, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting *nonferrous metals, and materials, equipment, and supplies* used in the manufacture and distribution of nonferrous metals, between points in TX, AZ, NE, MO, OK, IN, NJ, CA, IL, and OH on the one hand, and, on the other, points in the U.S.

MC 123812 (Sub-6F), filed August 4, 1980. Applicant: SULLIVAN FREIGHT LINES, INC., Congress Parkway, Athens, TN 37303. Representative: Blaine Buchanan, 1024 James Bldg., Chattanooga, TN 37402. Transporting (1) *farm implements* and *parts and*

accessories for farm implements, and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Yazoo County, MS, on the one hand, and, on the other, points in the U.S.

MC 141532 (Sub-88F), filed August 4, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., a corporation, 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* including galvanized, as described in Item 33 of the Standard Transportation Commodity Code Tariff and *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation Commodity Code Tariff between points in Davis County, UT, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 141532 (Sub-89F), filed August 5, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., a corporation, 10244 Arrow Highway, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* including galvanized, as described in Item 33 of the Standard Transportation Commodity Code Tariff and *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation Commodity Code Tariff between points in Los Angeles County, CA, on the one hand, and, on the other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 141532 (Sub-90F), filed August 5, 1980. Applicant: PACIFIC STATES TRANSPORT, INC., a corporation, 10244 Arrow Hwy, Rancho Cucamonga, CA 91730. Representative: Michael J. Norton, 1905 South Redwood Rd., Salt Lake City, UT 84104. Transporting *primary metal products,* including galvanized, as described in Item 33 of the Standard Transportation Commodity Code Tariff and *fabricated metal products,* except ordnance, as described in Item 34 of the Standard Transportation Commodity Code Tariff (1) between points in Alameda County, CA, on the one hand, and, on the other, points in the U.S., (2) between points in Chester County, PA, on the one hand, and, on the other, points in CA, and (3) between points in Salt Lake County, UT, on the one hand, and, on ther other, points in the U.S. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 146982 (Sub-4F), filed August 5, 1980. Applicant: D. J. LEE CO., INC., Route 1, Vesper, WI 54489. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting *such commodities* as are dealt in or used by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), from points in Portage and Wood Counties, WI, to points in AZ, CA, CO, ID, OR, MT, NV, NM, TX, UT, WA and WY.

MC 146982 (Sub-5F), filed August 5, 1980. Applicant: D. J. LEE CO., INC., Route 1, Vesper, WI 54489. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. Transporting (1)(a) *fireplaces, space heaters, and chimneys,* and (b) *parts and accessories for the commodities in (1)(a) above,* and (2) *materials, equipment and supplies* used in the manufacture or distribution of the commodities in (1)(a) above (A) between Stevens Point and Wisconsin Rapids, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) between points in San Bernardino County, CA, on the one hand, and on the other, these points in the U.S. in and west of MT, WY, CO and NM.

MC 151352 (IF), filed August 5, 1980. Applicant: E.L.M. TRUCKING, INC., P.O. Box 4048, Opelika, AL 36801. Representative: Terry P. Wilson, 428 So. Lawrence Street, Montgomery, AL 36104. Transporting *non-exempt food or kindred products, as described in item 20 of the Standard Transportation Commodity Code, Tariff, between points in Chautauqua County, NY, Passaic and Hudson Counties, NJ, Charleston County, SC, Armstrong County, PA, and Dearborn County, IN, on the one hand, and, on the other, points in Mobile, Montgomery, and Houston Counties, AL.*

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-00000 Filed 00-00-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rule's of Practice, see 49 CFR 1100.247. Special rule 247 was published in the Federal Register on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

FINDINGS: With the exception of those applications, involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before October 3, 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 notice that the decision-notice is effective. On or before October 20, 1980 an applicant may file a verified statement in rebuttal to any statement in oppostion.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-011

Decided: August 7, 1980

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 200 (Sub-481F), filed August 1, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in Finney County, KS, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, AL, FL, GA, MS, NC, SC, TN, IL, IA, IN, KS, KY, MI, MN, MO, NE, ND, OH, SD, WI, and DC.

MC 29910 (Sub-282F), filed July 29, 1980. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th St., Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902.

I—Over Regular Routes Transporting:

(A) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, cement in packages, and those requiring special equipment), (1) between Albuquerque, NM, and El Paso, TX, from Albuquerque over U.S. Hwy 85 to Las Cruces, NM, then over U.S. Hwy 80 to El Paso, and return over the same route, serving all intermediate points, restricted at Belen, NM, and points north thereof to traffic moving to or from points south of Belen, and further restricted at Hatch, NM, and points south thereof to traffic moving to or from points north of Hatch, (2) between Ogden, UT, and Albuquerque, NM, from Ogden over U.S. Hwy 89 to junction U.S. Hwy 50, then over U.S. Hwy 50 to junction U.S. Hwy 63 (formerly U.S. Hwy 160), then over U.S. Hwy 163 to junction U.S. Hwy 666, then over U.S. Hwy 666 to junction U.S. Hwy 66, then over U.S. Hwy 66 to Albuquerque, and return over the same route, serving the intermediate points of Salt Lake City, Provo and Ogden Arsenal, UT, and the off-route points of Hill Field, Naval Supply Depot near Ogden, UT, and the Geneva Steel Mills near Provo and those within five miles of Salt Lake City, restricted against traffic moving between points in UT, and further restricted to traffic moving on Government bills of lading when moving between points north of but not including Salt Lake City, (3) between Hatch and Deming, NM, over NM Hwy 26, serving the intermediate points of Florida and Nutt, NM, (4) between Deming and Columbus, NM, over NM Hwy 11, serving all intermediate points, (5) between Deming and Hachita, NM, from Deming over U..S Hwy 70 to junction NM Hwy 81, then over NM Hwy 81 to Hachita, and return over the same route, serving all intermediate points between Hachita and junction U.S. Hwy 70 and NM Hwy 81, (6) between Deming and Rodeo, NM, over U.S. Hwy 80, serving all intermediate points, (7) between Lordsburg and Animas, NM, from Lordsburg over U.S. Hwy 80 to junction NM Hwy 338, then over NM Hwy 338 to Animas, and return over unnumbered Hwy to Lordsburg, serving all intermediate points, (8) between El Paso, TX, and Deming, NM, over U.S. Hwy 80, serving the intermediate points of Akela and Cambray, NM, and the off-route points of the Corrilitos Ranches, 10 miles south of U.S. Hwy 80, The Johnson Ranch, 5 miles south of Cambray, The Jernigan Ranch, 4 miles northwest of Akela, The Birchfield Ranch, 20 miles southwest of Akela, and Wemple, NM, (9) between El Paso, TX, and Hatch, NM, from El Paso over alternate U.S. Hwy 80 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Las Cruces, NM, then over U.S. Hwy 85 to Hatch, and return over the same route, serving the off-route points of Radium Springs, Leasburg, Ricon, Hill, and Dona Ana, NM, (10) between El Paso, TX, and Artesia, NM, from El Paso over U.S. Hwy 62 to Carlsbad, NM, then over U.S. Hwy 285 to Artesia, and return over the same route, serving all intermediate points, (11) between Tularosa and Vaughn, NM, over U.S. Hwy 54, serving all intermediate points, (12) between Roswell and Artesia, NM, from Roswell over NM Hwy 2 (formerly unnumbered Hwy) to junction U.S. Hwy 285, then over U.S. Hwy 285 to Artesia, and return over the same route, serving the intermediate points of Dexter, Hagerman, Lake Arthur, Cottonwood and Espuella, NM, (13) between Hagerman and Roswell, NM, over NM Hwy 2, serving all intermediate points, and (14) between El Paso, TX, and San Antonio, NM, from El Paso over U.S. Hwy 54 to Carrizozo, then over U.S. Hwy 380 to San Antonio, and return over the same route, serving all intermediate points south of but not including Carrizozo, NM, and the off-route point of Holloman Air Force Base near Alamogordo, NM.

(B) *dangerous articles and explosives,* (1) between El Paso, TX, and Artesia, NM, from El Paso over U.S. Hwy 62 to Carlsbad, NM, then over U.S. Hwy 285 to Artesia and return over the same route, serving the off-route points in NM east of U.S. Hwy 285 and within 25 miles of Carlsbad, and (2) between Tularosa and Vaughn, NM, over U.S. Hwy 54, serving all intermediate points.

(C) *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 Albuquerque, NM, and U.S. Engineers Project No. 76, approximately 7 miles southeast of Albuquerque, over unnumberd Hwy, serving no intermediate points, (2) between Las Cruces and White Sands Proving Grounds, NM (located approximately 27 mailes east of Las Cruces), from Las Cruces over U.S. Hwy 70 to junction with unnumbered Hwy, then over the unnumbered Hwy to White Sands Proving Grounds, and return over the same route, serving all intermediate points, (3) between Albuquerque and Farmington, NM, from Albuquerque over U.S. Hwy 85 to junction NM Hwy 44 near Bernalillo, NM, then over NM Hwy 44 to Bloomfield, then over NM Hwy 17 to Farmington, and return over the same route, serving no intermediate points, (4) between San Antonio and El Paso, TX, from San Antonio over U.S. Hwy 87 to Comfort, TX, then over TX Hwy 27 to junction U.S. Hwy 290, then over U.S. Hwy 290 to junction U.S. Hwy 80, then over U.S. Hwy 80 to El Paso, and return over the same route, serving all intermediate points, and the off-route points of Royalty, Crane, and Iraan, TX, (5) between Dallas, TX, and Albuquerque, NM, from Dallas, TX, over U.S. hwy 180 to Snyder, TX, then over U.S. Hwy 84 to Ft. Sumner, NM, then over U.S Hwy 60 to Encino, NM, then over U.S. Hwy 285 to Clines Corners, NM, then over U.S. Hwy 66 to Albuquerque and return over the same route, (6) between Post, TX, and Tularosa, NM, from Post over U.S. Hwy 380 to Hondo, NM, then over U.S. Hwy 70 to Tularosa and return over the same route, restricted to traffic originating at or destined to points in NM, (7) between Tularosa and Roswell, NM, over U.S. Hwy 70, serving all intermediate points and the off-route point of Ruidoso, NM, (8) between Road Forks, NM, and Tucson, AZ, (a) from Road Forks, NM,

over Interstate Hwy 10 (NM Hwy 14) to junction AZ Hwy 86 at the NM-AZ state line, then over AZ Hwy 86 to junction U.S. Hwy 80 at or near Benson, AZ, then over U.S. Hwy 80 to Tucson, AZ, and return over the same route, serving all intermediate points except Benson, AZ, and (b) between Road Forks, NM, and Tucson, AZ, over Interstate Hwy 10, (9) serving Hollywood, NM, as an intermediate points in connection with carrier's otherwise authorized regular-route between Dallas, TX, and Tularosa, NM, restricted to traffic originating at or destined to points in NM, (10) between Phoenix and Tucson, AZ, over Interstate Hwy 10, serving no intermediate points, restricted against traffic moving between Phoenix, AZ, and points in its commercial zone, on the one hand, and, on the other, Tucson, AZ, and points in its commercial zone, (11) between Lordsburg and Deming, NM, from Lordsburg over NM Hwy 90 to Silver City, NM, then over U.S. Hwy 180 to Deming and return over the same route, serving all intermediate points and the off-route points of Hanover, Santa Rita, Tyrone and the Phelps-Dodge mine site near Tyrone, NM, (12) between Post, TX, and Roswell, NM, over U.S. Hwy 380, serving no intermediate points and serving Post, TX, for purpose of joinder only, (13) between Snyder, TX, and Carlsbad, NM, over U.S. Hwy 180, serving no intermediate points, and serving Snyder, TX, for purpose of joinder only, (14) serving Clovis, NM, as an intermediate point in connection with carrier's otherwise authorized regular-route operations between Dallas, TX, and Albuquerque, NM, (15) serving the facilities of Phelps-Dodge Corp., located in Hidalgo County, NM, as an off-route point in connection with carrier's otherwise authorized regular-route operations, and (16) serving the site of the Little Mountain, UT, Production Testing Facility of the Marquardt Aircraft Company plant approximately 11 miles west of Ogden, UT, as an off-route point in connection with carrier's otherwise authorized regular-route operations over U.S. Hwy 91.

(D) *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Las Cruces and San Antonio, NM, from Las Cruces over U.S. Hwy 70 to Alamogordo, NM, then over U.S. Hwy 54 to Carrizozo, NM, then over U.S. Hwy 380 to San Antonio, and return over the same route, serving the White Sands Missile Range, NM, as an off-route point, and (2) between Artesia, NM, and junction U.S. Hwys 82 and 54, over U.S. Hwy 82, serving all intermediate points, and the site of the U.S. Government Solar Furnace, approximately 3.5 miles north of Cloudcroft, NM, as an off-route point.

II—Over Irregular Routes Transporting:

(A) *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 those parts of Luna, Grant, and Dona Ana Counties, NM, south of U.S. Hwy 80.

III—Alternate Routes for Operating Convenience Only Transporting:

(A) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, cement in packages, and those requiring special equipment) (1) between Ogden and Salt Lake City, UT, over U.S. Hwy 91, serving no intermediate points, restricted to traffic moving on Government bills of lading (2) between El Paso, TX, and the site of the White Sands Missile Range, NM, from El Paso over U.S. Hwy 54 to junction unnumbered Hwy approximately 4 miles north of El Paso, then over unnumbered Hwy to the White Sands Missile Range, and return over the same route, serving no intermediate points, and serving off-route points in NM east of U.S. Hwy 285 and within 30 miles of Carlsbad, NM, in connection with carrier's otherwise authorized regular-route operations between El Paso, TX, and Artesia, NM (3) between El Paso, TX, and Las Cruces, NM, from El Paso across the Rio Grande River to junction NM Hwy 28, then over NM Hwy 28 to Las Cruces, and return over the same route, serving no intermediate points and serving Las Cruces for purpose of joinder only, and (4) between Shiprock and Farmington, NM, over U.S. Hwy 550, serving no intermediate points, restricted against traffic moving between Farmington, NM, and points in its commercial zone, on the one hand, and, on the other, Salt Lake City, UT, and its commercial zone and points beyond Salt Lake City, UT.

(B) *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 Albuquerque, NM, and junction NM Hwy 45 and U.S. Hwy 85, from Albuquerque over U.S. Hwy 66 to junction NM Hwy 45, then over NM Hwy 45 to junction U.S. Hwy 85 (about 7 miles north of Los Lunas, NM), and return over the same route, serving no intermediate points, but serving points in the El Paso, TX and Albuquerque, NM commercial zones as intermediate and off-route points in connection with carrier's otherwise authorized regular-route operations between El Paso, TX, and Albuquerque, NM (2) between Vaughn and Roswell, NM, over U.S. Hwy 285, serving no intermediate points, and (3) between Carlsbad, NM, and Ft. Stockton, TX, over U.S. Hwy 285, serving no intermediate points, and serving Carlsbad, NM, for purpose of joinder only.

Condition: To the extent that the certificate in this proceeding authorizes the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

Note.— Applicant intends to tack this authority to its existing regular-route authority.

MC 61440 (Sub-195F), filed August 4, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N.W. 63rd St., Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving points in TX as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 69281 (Sub-56F), filed August 4, 1980. Applicant: THE DAVIDSON TRANSFER & STORAGE CO., a Corporation, 698 Fairmount Ave., Baltimore, MD 21204. Representative: David W. Ayers, P.O. Box 58, Baltimore, MD 21203. *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 Allentown and Reading, PA, over PA Hwy 222, and (2) between Allentown and Pottsville, PA, from Allentown over PA Hwy 309 to junction PA Hwy 209, then over PA Hwy 209 to Pottsville, and return over the same route, serving all intermediate points, and serving all other points in Berks and Schuylkill Counties, PA, as off-route points.

Note.—Applicant intends to tack this authority with its existing regular-route authority at Allentown, PA.

MC 111231 (Sub-308F), filed August 1, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting (1) *plastic pipe, fittings, gaskets, and sealer,* and (2) *accessories for plastic pipe,*

between the facilities of Marathone Plastics, Inc., at or near Litchfield, IL, on the one hand, and, on the other, points in AL, AR, FL, GA, IA, IN, KS, KY, MI, MN, MO, MS, NC, ND, NE, OH, OK, SC, SD, TN, VA, and WI.

MC 119741 (Sub-273F), filed August 4, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *such commodities* as are dealt in, or used in the manufacturing, processing or milling of soybeans, soybean products, salt and grain, and the manufacture and processing of steel products, (except commodities in bulk), between the facilities of Cargill, Inc., and its subsidiaries, on the one hand, and, on the other, points in the U.S.

MC 135410 (Sub-104F), filed August 5, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. BOX 266, Monmouth, IL 61462. Representative: Daniel O. Hands, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. Transporting (1) *foodstuffs*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, between the facilities of Velvet Food Products, at Livonia, MI, on the one hand, and, on the other, points in IL.

MC 138420 (Sub-47F), filed July 30, 1980. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., Route 1—P.O. Box 147, Cleveland, WI 53063. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting (1) *malt beverages* from Pittsburgh, PA, to points in MN, WI, and those in IL on and north of U.S. Hwy 136, and (2) *materials, equipment and supplies* used in the production and distribution of malt beverages, in the reverse direction.

MC 138991 (Sub-29F), filed August 4, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Rd., Victor, NY 14564. Representative: Linda A. Calvo (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), between points in the U.S., under continuing contract(s) with General Foods Corporation, of White Plains, NY.

MC 139171 (Sub-6F), filed August 1, 1980. Applicant: CONTROLLED DELIVERY SERVICE, INC., 17295 E. Railroad Ave., City of Industry, CA 91749. Representative: Robert L. Cope, Suite 501, 1730 M St., N.W., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Streamline Shippers Association, Inc., of Los angeles, CA.

MC 145950 (Sub-84F), filed August 1, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Drive, Waco TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg. 666 Eleventh St., N.W. Washington, DC 20001. Transporting *bananas*, from Mobile, AL, Gulfport, MS, Charleston, SC, and Galveston, TX, to points in the U.S., restricted to traffic having a prior movement by water.

MC 146071 (Sub-27F), filed August 5, 1980. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St. Denver, CO 80203. 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 Dubuque Packing, Inc., at Le Mars and Sioux City, IA, to points in CT, DE, MA, MD, ME, NH, NJ, NY, OH, PA, RI, VT, WV, and DC.

MC 150710 (Sub-1F), filed August 4, 1980. Applicant: LEBARNOLD, INC., 625 South 5th Ave., P.O. Box 630, Lebanon, PA 17042. Representative: Richard A. Mehley, 1000 16th St., N.W., Suite 502, Washington, D.C. 20036. Transporting *such commodities* as are dealt in or used by retail distributors of wearing apparel, between points in the U.S., under continuing contract(s) with Kinney Service Corporation, of Harrisburg, PA.

MC 151271 (Sub-1F), filed July 24, 1980. Applicant: JERRY OWEN'S TRUCKING CO., P.O. Box 371, Rice Lake, WI 54868. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Decker Distributing, Inc., of Rice Lake, WI.

MC 151280 (Sub-1F), filed August 1, 1980. Applicant: IOWA TURKEY EXPRESS, INC., P.O. Box 582, Storm Lake, IA 50588. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *such commodities* as are dealt in or used by wholesale and retail lumber yards and home improvement stores, between the facilities of Ranco Company, at or near (a) Culbertson, McCook, North Platte and Grand Island, NE, (b) Storm Lake, IA, and (c) Rogers, AR.

Volume No. OP1–012

Decided: Aug. 11, 1980
By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Carleton not participating.

MC 115311 (Sub 399F), filed August 1, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting (1)(a) *anti-freeze compounds, de-icing compounds, petroleum and petroleum products, additives, agricultural chemicals, windshield washer solvent, and* (b) *containers and closures*, from points in Montgomery, AL, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (a) and (b) above, in the reverse direction.

MC 124511 (Sub-66F), filed August 5, 1980. Applicant: OLIVER MOTOR SERVICE, INC., P.O. Box 223, East Hwy. 54, Mexico, MO 65265. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. Transporting *iron and steel articles* (except commodities the transportation of which because of size or weight requires the use of special equipment) between Chicago and East St. Louis, IL, on the one hand, and, on the other, Kansas City, KS, and points in MO.

MC 143701 (Sub-26F), filed August 1, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 73–I, Metairie, LA 70033. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Transporting *foodstuffs*, between points in the U.S., restricted to traffic originating at or destined to the facilities of Winton Sales Company or its customers or suppliers.

MC 146071 (Sub-28F), filed August 5, 1980. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting *frozen prepared foods and frozen meats*, from the facilities of Armour & Co., at or near (a) Eau Claire, WI, and (b) Fairmont, MN, to points in FL, AL, MS, LA, and AR.

MC 150791 (Sub-1F), filed August 4, 1980. Applicant: INDUSTRIAL FREIGHT SERVICES, INC., 241 Erie St., Waverly, NY 14892. Representative: Donald C. Carmien, 501 Midtown Mall, Binghamton, NY 13901. Transporting *fabricated metal products* and *primary metal products*, as described in Items (34) and (33) of the Standard Transportation Commodity Code Tariff,

between points in the U.S., under continuing contract(s) with Ingersoll-Rand Company, Athens, PA.

MC 151451F, filed August 1, 1980. Applicant: CHARLES E. REED, P.O. Box 547, Long Lane, Franklin, TN 37064. Representative: James Clarence Evans, 1800 Third National Bank Bldg., Nashville, TN 37219. Transporting *edible tallow, shortening, vegetable, cooking, and salad oils, and margarine* (except commodities in bulk), from the facilities used by Bunge Edible Oil Corporation, at (a) Bradley, IL, and (b) Chattanooga, TN, to points in AL, GA, IL, KY, and TN.

MC 151461F, filed August 5, 1980. Applicant: B.J.K. CORP., 414 Park Dr., Grand Forks, ND 58201. Representative: David C. Britton, 1425 Cottonwood St., Grand Forks, ND 58201. Transporting *nonmetallic minerals* (except fuels), as described in Item 14 of the Standard Transportation Commodity Code Tariff, between points in Traill and Pembina Counties, ND, on the one hand, and, on the other, points in St. Louis County, MN.

Volume No. OP2–015

Decided: August 6, 1982.

By the Commission, Reveiw Board Number 1, Members Carleton, Joyce and Jones.

MC 151393F, filed July 28, 1980. Applicant: MILLERS BEND CARRIERS, INC., U.S. Highway 231 No., P.O. Box 197, Wetumpka, AL 36092. Representative: Ronald L. Stichweh, 727 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *general commodities* (except used household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Volume No. OP2–016

Decided: August 7, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 94393 (Sub-11F), filed August 1, 1980. Applicant: W. J. CASEY TRUCKING & RIGGING CO., INC., 1200 Springfield Rd, Union, NJ 07083. Representative: Michael A. Wargula, 2550 Main Place Tower, Buffalo, NY 14202. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S. (except AK and HI).

MC 124423 (Sub-10F), filed August 1, 1980. Applicant: JET MESSENGER SERVICE, INC., Box 99, Metuchen, NJ 08840. Representative: W. C. Mitchell, 370 Lexington Ave, New York, NY 10017. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 124673 (Sub-55F), filed July 31, 1980. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting: *Animal and poultry feed*, between points in the U.S. (except AK and HI).

MC 127053 (Sub-2F), filed August 5, 1980. Applicant: ALERT MESSENGER SERVICE, INC., d.b.a. AVAK MESSENGER SERVICE, 28 E. Winant Ave., Ridgefield Park, NJ 07660. Representative: Henry Lopez, 350 Teaneck Rd., Ridgefield Park, NJ 07660. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 148802 (Sub-2F), filed August 1, 1980. Applicant: RUSSELL B. HINER, and PETER D. MILLER d.b.a. R.P.M. MESSENGER SERVICE, a partnership, 3387 Quakerbridge Rd., Mercerville, NJ 08619. Representative: John M. Ballenger, 6121 Lincolnia Rd., Suite 400, Alexandria, VA 22312. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP2–020

Decided: August 8, 1980.

By the Commission, Review Board Number 2, Members Chamdler, Eaton and Liberman.

MC 130982F, filed August 4, 1980. Applicant: BMS BROKERAGE COMPANY, a partnership, 67 Wall St., Suite 2510, New York, NY 10005. Representative: Thomas J. Benner (address same as applicant). To operate as a broker of property for the transportation of *general commodities* (except household goods) between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–25066 Filed 8–18–80; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: August 12, 1980.

In our decisions of May 13, 20, 27, June 3, 10, 17, 24, July 1, 8, 15, 22, and 29, and August 5, 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 received compensation at this level.

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 for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

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 Commissions 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. August 15, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Chairman Gaskins absent and not participating.

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)

August 11, 1980 ..... 113.8¢

	Transportation performed by—			
	Owner operator [1]	Other [2]	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	13.4	2.3	5.0	[3]2.1
Percent surcharge allowed	13	2.3	5.0	[4]1.3

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] 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 UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge figure is reduced 0.8 percent to reflect fuel related increases already included in UPS rates.

[FR Doc. 80–25084 Filed 8–18–80; 8:45 am]

BILLING CODE 7035–01–M

Long-and-Short-Haul Applications for Relief (Formerly Fourth Section Application)

August 13, 1980.

These applications for long-and-short-haul relief have been filed with I.C.C.

Protests are due at the ICC on or before September 3, 1980. No. 43854, Southwestern Freight Bureau, Agent, (No. B–81), increased rates on common salt, in carloads, between points in Southwestern Territory, as published in Supplement 210 to its Tariff ICC SWFB 2004–J, to become effective September 10, 1980. Grounds for relief—revised rate structure. No. 43855, Southwestern Freight Bureau, Agent, (No. B–72), increased rates on rice, rice products and related commodities, in carloads, between stations in Southwestern Territory, on the one hand, and stations in Eastern, Illinois, Southern, Southwestern and Western Territories, on the other hand. Rates are published in Supp. 209 to its Tariff ICC SWFB 2004–J, Supp. 321 to ICC SWFB 2005–J, Supp. 305 to ICC SWFB 2007–H, Supp. 263 to ICC SWFB 3282–D, and Supp. 176 to ICC SWFB 4390, to become effective September 13, 1980. Grounds for relief—additional revenue to offset increased operating costs. By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–25085 Filed 8–18–80; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 380]

Status of Carrier-Affiliated Shippers' Agents

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time to file comments in declaratory order proceeding.

SUMMARY: On July 3, 1980, a declaratory order proceeding was instituted to determine the lawfulness of a railroad's establishing a subsidiary consolidation company to act as an exempt shipper's agent under 49 U.S.C. 10562(4).

The purpose of this document is to give notice that the time for filing comments in this proceeding is extended to September 18, 1980.

DATE: Comments should be filed by September 18, 1980.

ADDRESSES: Send an original and 15 copies, if possible, of any comments to: Ex Parte No. 380, Room 5416, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

Send one copy of comments to each of petitioners' representatives:

M. J. Barron, Vice President—Marketing, Detroit, Toledo & Ironton Railroad Co., One Parkland Boulevard, Dearborn, MI 48126.

Lawrence Berman, 747 Third Avenue, New York, NY 10017.

S. S. Eisen, 370 Lexington Avenue, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: Mark S. Shaffer, (202) 275–7531 or Donald J. Shaw, Jr., (202) 275–7292.

SUPPLEMENTAL INFORMATION: Robert H. Shertz, on behalf of the Local and Short Haul Carrier National Conference of the American Trucking Association, has filed a written request that the time for filing comments in this proceeding (a notice of institution of a declaratory order proceeding published at 45 FR 45410, July 3, 1980) be extended until September 18, 1980. The Conference contends that it needs the time extension to contact its numerous members and properly prepare comments reflecting the members' positions.

We believe the requested extension for the filing of comments is warranted. The extension would provide sufficient time for the Conference to gather the information it needs from its members so that meaningful comments may be filed. The 30-day extension would not, on the other hand, delay the proceeding for an unreasonable period of time.

Accordingly, the time for filing comments in this proceeding is extended to September 18, 1980.

Decided: August 13, 1980.

By the Commission, Robert C. Gresham, Acting Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–25087 Filed 8–18–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. 37343]

U.S. Railroads; Petition for Declaratory Order; Elimination of Grain Tables From General Rate Increase Master Tariff

AGENCY: Interstate Commerce Commission.

ACTION: Elimination of Grain Tables from General Rate Increase Master Tariff.

SUMMARY: The United States railroads filed a request on December 21, 1979 for the authority to eliminate grain tables from master tariffs publishing rail general rate increases. In a notice served March 19, 1980 (45 FR 19407, March 25, 1980) the Commission sought public comments on the proposed elimination. Nineteen parties responded, all favorably to the proposal. We have found that the grain tables have outlived their original purpose and have become a costly burden. Elimination of these tables will lead to tariff simplification and a reduction in publishing and other related costs. This elimination will apply on all future railroad general rate increases.

ADDRESS: Copies of this decision may be obtained from: The Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder or Jane Mackall, (202) 275–7693.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Dated: August 6, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–25091 Filed 8–18–80; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 80–17502, appearing at page 39960 in the issue of Thursday, June 12, 1980, please make the following correction:

On page 39971, second column, first full paragraph, under MC 107452, in the 23rd line, "SN" should read "ND". In the next line "MN" should read "NM".

BILLING CODE 1505–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M–80–89–C]

Galveston Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Galveston Coal Co., Inc., Box 6, Bypro, KY 41612, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Floyd County, Kentucky. The petition

is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. This petition concerns the installation of lighting on the petitioner's mining machines.

2. The petitioner states that due to the thinness of the seams there is not sufficient clearance between the top of the equipment and the mine roof to allow for installation of lighting.

3. For this reason, the petitioner requests a modification of the application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before September 18, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: July 9, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-25186 Filed 8-18-80; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period August 4–8, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA–W–7625; RCA Corporation, Indianapolis, Indiana

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of records did not increase as required for certification.

TA–W–7621; Rockwell International, La Palma, California

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of wheels did not increase as required for certification.

TA–W–8284; Keystone Resources, Greensboro, Georgia

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of aluminum casting alloys did not increase as required for certification.

TA–W–8190–91; Allegheny Ludlum Steel, Wallingford, Connecticut

The investigation revealed that criterion (2) has not been met.

TA–W–9167; White Automotive Service, Inc., Allen Park, Michigan

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7926; Police, Fire & Street Departments, Parma, Ohio

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7622; Aileen, Incorporated, Brookneal, Virginia

The investigation revealed that criterion (3) has not been met. Separations from the subject plant resulted from a transfer of production to other domestic facilities.

TA–W–9151; Island Creek Coal Company, Gund Prep Plant, Sidney, Kentucky

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–9152; Island Creek Coal Company, Big Creek Mine #1, Sidney, Kentucky

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–9153; Island Creek Coal Company, Big Creek Mine #2, Sidney, Kentucky

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–7798; Crucible, Inc., Midland Pennsylvania

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of alloy steel bars and stainless steel sheet and strip did not increase as required for certification.

TA–W–8269; General Motors Corporation, G.M. Division, Edina, Montana

The investigation revealed that criterion (3) has not been met. A substantial portion of the parts produced at the Edina Plant are replacement parts for automobiles produced prior to Model Year 1979.

TA–W–8273; South Western Rail Production, TS Inc., Wellington, Texas

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7917; Industrial Transport, Cleveland, Ohio

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7927; DND Teletronics, Utica, New York

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7604; Henry Richards Co., Hamden, Connecticut

The investigation revealed that criterion (1) has not been met.

TA–W–8120; Rockport Log and Shake, Copalis Crossing, Washington

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7619; Elco Industries Inc., Southington, Connecticut

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8160; GF Business Equip, Crenlo Division, Rochester, Montana

With respect to workers producing electronic modular enclosures, the investigation revealed that criterion (2) has not been met.

With respect to workers producing cabs for agricultural tractors, the investigation revealed that criterion (3) has not been met. Imports of cabs for agricultural tractors are negligilbe.

TA–W–7808; Max Alaways Mill, Sedro Woolley, Washington

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8825; Commercial Steel Treating, Madison Heights, Michigan

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7399; Uniroyal Merchandising Company, Houston, Texas

The investigation revealed that criterion (3) has not been met. Separations from Uniroyal Merchandising Company resulted from a general decline in the demand for passenger car tires.

TA–W–8211; Selmear Company, Elkhart, Indiana

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of woodwind instruments did not increase as required for certification.

TA–W–8086–8090; Greif and Company, Fredricksburg, Virginia, Baltimore, Maryland, Everett, Pennsylvania, Hanover, Pennsylvania, Verona, Virginia

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7950; U.S. Steel Corporation, Texas Works, Baytown, Texas

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of welded steel pipe and carbon steel plate did not increase as required for certification.

TA–W–7882; Hurn Shingle Mill, Concrete, Washington

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7848; Levi Strauss Company, San Francisco, California

The investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA–W–7676; International Packings Company, Bristol, New Hampshire

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–9201; Newport Tire Center, Inc., Springfield, Missouri

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8960; Dearborn Refining Company, Dearborn, Michigan

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8776; Val-Kro Inc., Buffalo, New York

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8693; Goddeyne Manufacturing Company, Bay City, Michigan

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8296; Bowling and Hildebrand Truck, Raleigh, West Virginia

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8155; Georgia Pacific Corporation, Woodland, Maine

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–8098; New England Drawn Steel, Mansfield, Massachusetts

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7903; Cassens Transport, Edwardsville, Illinois

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7837; Colt Industrial, Haralson Metal Plant, Bremen, Georgia

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7880; Edmonton Manufacturing Company, Edmonton, Kentucky

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7787; Allegheny-Ludlum Steel, W. Leechburg Works, West Leechburg, Pennsylvania

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of stainless sheet, stainless strip, stainless plate, and silicon sheet did not increase as required for certification.

TA–W–7888; Allegheny-Ludlum Steel, Brackenridge, Pennsylvania

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of stainless sheet, stainless strip, stainless plate, and silicon sheet did not increase as required for certification.

TA–W–8394; The Budd Company, Red Lion Plant, Automotive Frame Operations, Philadelphia, Pennsylvania

The investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–7939; Stauffer Chemical Company, Food Ingredients Division, South Portland, Maine

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of Carrageenan did not increase as required for certification.

TA–W–8842; White Automotive Service, Inc., Toledo, Ohio

The investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8690; Brewster Finishing Company, Paterson, New Jersey

The investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric did not increase as required for certification.

Affirmative Determinations

In each of the following cases, it has been concluded that all of the criteria have been met, and certifications have been issued covering workers totally or partially separated from employment on or after the designated dates.

TA–W–7995; Dawn Fashion Leather, New York, New York

A certification was issued covering all workers of the firm separated on or after April 24, 1979.

TA–W–7822; Apex Hip and Ridge, Inc., Humptulips, Washington

A certification was issued covering all workers of the firm separated on or after April 11,1979.

TA–W–8081; D & G Shake Company, Inc., Amanda Park, Washington

A certification was issued covering all workers of the firm separated on or after April 10, 1979.

TA–W–7530; Taurus Manufacturing Company, Blairsville, Pennsylvania

A certification was issued covering all workers of the firm separated on or after June 1, 1979.

TA–W–8423; York Luggage Corpration, Lambertville, New Jersey

A certification was issued covering all workers of the firm separated on or after May 12, 1979.

TA–W–7695; Paul's Auto Ignition, Inc., Yonkers, New York

A certification was issued covering all workers of the firm separated on or after April 25, 1979.

TA–W–8005; Southeastern Garment, Clinton, North Carolina

A certification was issued covering all workers of the firm separated on or after July 1, 1979.

TA–W–7581–7581 A; Henry Guttman, Inc., Coat Fair, Inc., New York, New York

A certification was issued covering all workers of the firm engaged in employment related to the production of women's coats, jackets, and raincoats who were separated on or after June 22, 1979.

TA–W–7465; Acme Precision Products, Inc., Detroit, Michigan

With respect to workers producing automobile moulding, a certification was issued for workers separated from employment on or after March 3, 1979.

With respect to workers producing drives, criterion (2) has not been met.

With respect to workers producing light bezels and door handle assemblies, a survey of customers revealed that increased imports did not contribute importantly to the separation of workers.

TA–W–8613; Gereral Motors Corporation, General Motors Assembly Division, Fairfax, Kansas.

A certification was issued covering all workers of the firm separated on or after December 1, 1979.

I hereby certify that the aforementioned determinations were issued during the period August 4–August 8, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: August 13, 1980.

Harold A. Bratt,

Acting, Director Office of Trade adjustment Assistance.

[FR Doc. 80–25183 Filed 8–18–80; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–7916 and TA–W–7993]

Negative Determination Regarding Eligibility to Apply For Worker Adjustment Assistance; Correction

In FR Doc. 80–18725 appearing on page 41722 in **Federal Register** of June 20, 1980, the TA–W–number in Complete Auto Transit, St. Louis, Missouri appearing on page 41725 should be corrected to read TA–W–7993.

Signed at Washington, D.C. this 11th day of August 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80–25184 Filed 8–18–80; 8:45 am]

BILLING CODE 4510–28–M

NATIONAL CAPITAL PLANNING COMMISSION

Action of Agency Senior Executive Service Performance Review Board

Consistent with the Civil Service Reform Act of 1978, as amended by H.R. 7542, FY–80 Supplemental Appropriation Act, and supplemented by OPM guidance in their memorandum of July 21, 1980, to Heads of Departments and Agencies regarding SES Performance Review Boards, the National Capital Planning Commission has approved the payment of one SES bonus during FY–1980. The Commission's schedule for payment of this bonus will be September 1, 1980, and is awarded for the SES performance year ending June 15, 1980.

For further information regarding SES Performance Review Board contact: Malcolm L. Trevor, Assistant Executive Director for Administration, National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C. 20576.

August 14, 1980.

Edward H. Rickels,

Secretary.

[FR Doc. 80–25217 Filed 8–18–80; 8:45 am]

BILLING CODE 7520–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Folk Arts Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Folk Arts Panel to the National Council on the Arts will be held September 5, 1980 from 9:00 a.m. to 5:30 p.m. at Pueblosan Ildefonso, Route 5, Santa Fe, New Mexico and September 6, 1980 from 9:00 a.m. to 5:30 p.m. at St. John's College, Santa Fe, New Mexico.

A portion of this meeting will be open to the public on September 6, 1980 from 1:30 p.m. to 5:30 p.m. at St. John's College, Great Hall for the Folk Arts presentation and questions and answers with the public.

The remaining sessions of this meeting on September 5, 1980 from 9:00 a.m. to 5:30 p.m. and September 6, 1980 from 9:00 a.m. to 1:30 p.m. (at St. John's College, Senior Common Room) are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 13, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80–25207 Filed 8–18–80; 8:45 am]

BILLING CODE 7537–01–M

Design Arts Panel (Design Fellowship); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Design Arts Panel (Design Fellowships) will be held September 8, 1980 from 9:00 a.m. to 5:30 p.m., September 9, 1980 from 9:00 a.m. to 5:30 p.m., and September 10, 1980 from 9:00 a.m. to 5:30 p.m. in Room 1422, Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 7, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80–25210 Filed 8–18–80; 8:45 am]

BILLING CODE 7537–01–M

Museum Panel (Catalog and Utilization); Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Panel (Catalog and Utilization) to the National Council on the Arts will be held September 15, 1980 from 9:00 a.m. to 5:30 p.m. and September 16, 1980 from 9:00 a.m. to 5:30 p.m. in room 1426, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b or Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 5, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80–25206 Filed 8–18–80; 8:45 am]

Billing Code 7537–01–M

Museum Panel (Collecting Maintenance); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Panel (Collection Maintenance) to the National Council on the Arts will be held September 9, 1980 from 9:00 a.m. to 5:30 p.m. in Room 1340, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 7, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80–25208 Filed 8–18–80; 8:45 am]

BILLING CODE 7537–01–M

Museum Panel (Conservation); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Panel (Conservation) to the National Council on the Arts will be held September 8, 1980 from 9:00 a.m. to 5:30 p.m. in room 1426, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5; United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endownment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: August 5, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endownment for the Arts.

[FR Doc 80–25209 Filed 8–18–80; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Information Science and Technology; Notice of Meeting

In accordance with the Federal Advisory Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Information Science and Technology.

Date and Time: September 4 and 5, 1980, 9 a.m. to 4 p.m each day.

Place: Room 540, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of Meeting: Part Open—Open 9/4–9:00 a.m. to 12:00 p.m.—Closed 9/4–1:00 p.m. to 4:00 p.m.—Closed 9/5–9:00 a.m. to 12:00 p.m. Part Open—Open 9/5–1:00 p.m. to 4:00 p.m.

Contact Person: Mrs. Darcey Higgins, Room 1250, National Science Foundation, Washington, DC 20550. Telephone: 202/357–9572. Persons planning to attend should notify Mrs. Higgins by August 28, 1980.

Summary Minutes: May be obtained from the Contact Person, at the above stated address.

Purpose of Committee: To provide advice, recommendations, and oversight concerning support for activities related to the Foundation's program in information science and technology.

Agenda: Open—Septemer 4, 1980

9:00 a.m.–12:00 p.m.

Welcome and Introductory Remarks.
Review of the Division of Information Science and Technology Activities for FY 1980.
Working Group on Information Technology: Discussion of Meeting and Report.
Miscellanea.

Closed—September 4, 1980

1:00 p.m.–4:00 p.m.

Review and comparison of declined proposals (and supporting documentation) with the successful awards under the Division of Information Science and Technology, including review of peer review materials and other privileged material.

Closed—September 5, 1980

9:00 a.m.–12:00 p.m.

Continuation of review and comparison of declined proposals (and supporting documentation) with the successful awards under the Division of Information Science and Technology, including review of peer review materials and other privileged material.
Report to the Director.

Open—September 5, 1980

1:00 p.m.–4:00 p.m.

Organizational Locus of IST.
Public Participation.

Reason for Closing

The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical.

These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c) the Government in the Sunshine Act.

Authority to Close Meeting

This determination was made by the Committee Management Oficer pursuant to provisions of Section 10(d) of P.L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Note: This notice is being amended primarily to change the times of the open and closed sessions. The agenda is basically the same as that published in the **Federal Register** on Friday, August 15, 1980.

Dated: August 14, 1980.

M. Rebecca Winkler,

Committee Management Coordinator.

[FR Doc. 80–25080 Filed 8–18–80; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Fuel; Meeting

The ACRS Subcommittee on Reactor Fuel will hold a meeting on September 3, 1980 in Room 1046, 1717 H St., NW, Washington, DC., to complete its review of NUREG–0630, "Cladding Swelling and Rupture Models for LOCA Analysis." Notice of this meeting was published July 25, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, September 3, 1980, 1:00 p.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 13, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–24964 Filed 8–18–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Safety Philosophy and Criteria; Meeting

The ACRS Subcommittee on Safety Philosophy and Criteria will hold a meeting on September 3, 1980 in room 1046, 1717 H St., NW, Washington, DC to review the NRC Staff's general approach to developing licensing requirements in a number of areas, including Near-Term Construction Permit (NTCP) requirements, the effect of nonsafety systems on plant safety functions, and the requirements for future LWRs. The Subcommittee also plans to begin a review of the nuclear accident cascades issue.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Wednesday, September 3, 1980, 9:00 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff,

their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: August 13, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–24962 Filed 8–18–80; 8:45 am]

BILLING CODE 7590–01–M

PRESIDENT'S ADVISORY COMMITTEE FOR WOMEN

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the President's Advisory Committee for Women.

Date, Time and Place: September 15, 1980.
Open Business Session: 8:30 a.m. to 4:30 p.m., Room N–5437, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.
Purpose: General Business Meeting.
Date, Time and Place: September 16, 1980.
Open Business Session: 1:30–3:00 p.m., Room N–5437, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C.
Purpose: General Business Meeting.

Dated: August 12, 1980.

Warlene Gary,

Deputy Director.

[FR Doc. 80–25185 Filed 8–18–80; 8:45 am]

BILLING CODE 4510–23–M

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the President's Advisory Committee for Women.

Date, Time and Place: September 16, 1980.
Closed Business Session: 8:30 a.m. to 12:00 p.m., Room N–5437, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C.
Purpose: To discuss the 1980 Report to the President.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. During its closed session, the Committee will discuss and plan the format of the 1980 Report to the President.

Dated: August 12, 1980.

Warlene Gary,

Deputy Director.

[FR Doc. 80–25187 Filed 8–18–80; 8:45 am]

BILLING CODE 4510–23–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21677; (70–6117)]

Alabama Power Co.; Post-Effective Amendment Relating To Issuance and Sale of Short-Term Notes to Banks and Dealers in Commercial Paper; Exception From Competitive Bidding

August 11, 1980.

Notice is hereby given that Alabama Power Company ("Alabama"), P.O. Box 2641, Birmingham, Alabama 35291, an electric utility subsidiary of The Southern Company ("Southern"), a registered holding company, has filed post-effective amendments to the application-declaration in this proceeding, pursuant to Sections 6, 7 and 12 of the Public Utility Holding Company Act of 1935 ("Act"), and Rules 45 and 50(a)(5) promulgated thereunder, as applicable to the proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Alabama currently is negotiating to extend its Revolving Credit Agreement with a group of banks for a period of one year so that the expiration date thereof will be September 30, 1981, rather than September 30, 1980. The Revolving Credit Agreement provides a $500,000,000 line of credit. Alabama has additional lines of credit from other banks, principally in the State of Alabama, aggregating approximately $75,000,000 and issues commercial paper. Alabama now requests that its short-term borrowing authorization be extended through September 30, 1981 and be increased to permit a maximum aggregate principal amount outstanding at any one time of $575,000,000.

In general, borrowings are in the form of unsecured promissory notes, of a maturity of nine months or less. Except for commercial paper, issued for much shorter periods, such notes are prepayable without penalty. The credit agreements give Alabama the right to refund maturing obligations, within the limits specified in those agreements. The base interest rate on the first $250,000,000 of borrowing under the Revolving Credit Agreement is the higher of 108% of the base rate of Citibank, or ½ of 1% above a defined commercial paper rate. The base rate will apply only if Alabama's bond rating is upgraded to a single A category. An additional ¼ of 1% is added, as long as the bond rating is lower. Borrowings above the $250,000,000 level cost 110% of the applicable rate.

A two part commitment fee is charged, consisting of 7½% of the variable interest rate which is or would be applicable to the first $250,000,000 of borrowings and 10% of the rate applicable to the second $250,000,000, plus ½ of 1% on the unborrowed portion. No compensating balance is required. The local bank credit agreements generally require compensating balances of up to 20% of the amounts borrowed, and bear interest at the lenders' prime rates.

Based on the current Citibank rate of 10% per annum, Alabama's current bond ratings and the approximate balance of $286 million as of July 31, 1980, the effective interest rate under the Revolving Credit Agreement is 14.21% per annum. The effective interest rate on the local bank borrowings, based on an 11% prime rate, is approximately 13.75% per annum.

The Revolving Credit Agreement was entered into as of March 31, 1978, pursuant to an order entered in this proceeding on March 24, 1978 (HCAR No. 20469), which reserved jurisdiction over $250,000,000 of the authorized borrowings thereunder. Further orders on March 23, 1979 (HCAR No. 20970), and August 16, 1979 (HCAR No. 21188) were entered, the last reserving jurisdiction over the final $100,000,000.

The capitalization of Alabama, at December 31, 1979 and March 31, 1980 consisted of:

[Dollars in millions]

	Dec. 31, 1979		Mar. 31, 1980	
	Amount	Percent	Amount	Percent
Long-term debt	$1,884	51.4	$1,883	50.4
Interim obligation	353	9.6	394	10.5
Current maturities	24	0.6	29	0.8
Subtotal	2,261	61.6	2,306	61.7
Preferred stock	384	10.5	382	10.2
Common equity	1,023	27.9	1,050	28.1
Total	3,668	100.0	3,738	100.0

Prolonged rate litigation had precluded long-term financing, except for common equity supplied by Southern and compelled a sharp curtailment of Alabama's previously planned expenditures. Relief obtained in 1979 has permitted Alabama to develop a financial plan, based on bond and stock financing, which contemplates the payment of the accumulated borrowings in 1980 and a return to a normal level

and cycle of short term borrowings and security sales. The first $100,000,000 of new bonds were sold pursuant to the order of June 3, 1980 (HCAR No. 21605) and an application-declaration for sale of the next series, of the same size, is pending. Alabama's gross capital addition budget is about $425 million for 1980, of which about $130 million had been expended as of April 11, 1980, and its budget for the first three quarters of 1981 is about $370 million.

The timing of the full financing program is subject to market conditions and other variable factors. Alabama states that the extension of the Revolving Credit Agreement and the borrowing authorization requested is necessary to permit it to cope with possible delays and contingencies.

The Alabama Public Service Commission has authorized the proposed transactions. No other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment.

Notice is further given that any interested persons may, not later than September 4, 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 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 applicants-delcarants 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-declaration, as now amended or as it may be further amended, may be granted and 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 or 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.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-25229 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11299; (811-502)]

Bondstock Corp.; Filing of Application Pursuant to Section 8(f) of the Act for Order Declaring That Applicant Has Ceased To Be an Investment Company.

August 11, 1980

Notice is hereby given that Bondstock Corporation ("Applicant") 1100 One Washington Plaza, Tacoma, Washington 98402, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, filed an application on May 19, 1980, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a corporation organized and existing under the laws of the State of Delaware and that on December 1, 1948, it registered under the Act. Its initial registration statement filed pursuant to the Securities Act of 1933 ("1933 Act"), covering 288,500 shares of common stock, became effective on December 20, 1949. According to the application, in December, 1954, Applicant became an open-end investment company and commenced a continuous offering of its shares. Applicant represents that it maintained the continuous offering of its shares until January 23, 1980, when the sale of such shares was permanently discontinued.

According to the application, the Board of Directors approved, originally on February 21, 1979, and subsequently on May 18, 1979, August 24, 1979, and January 22, 1980, an Agreement and Plan of Reorganization ("Plan") whereby substantially all the property, assets and goodwill of Applicant would be transferred to Security Equity Fund, Inc. ("Equity"), a company registered under the Act as an open-end, diversified, management investment company, in exchange for shares of voting capital stock of Equity. The plan was approved by Applicant's shareholders on January 23, 1980.

Applicant states that prior to the exchange of shares pursuant to the Plan, it paid, in cash or through dividend reinvestment, a final dividend of $0.11 per share to shareholders of record on January 22, 1980. Applicant further states that as of January 23, 1980, the effective date of the reorganization, it had 2,463,973.622 shares of common stock, par value of $1.00, outstanding, with a per share net asset value of $6.25, resulting in an aggregate net asset value of $15,405,330 for Applicant, and that the net asset value per share of Equity as of that date was $5.91.

Applicant states that pursuant to the Plan: (1) all of its assets, including portfolio securities, were transferred to Equity in exchange solely for shares of capital stock of Equity, and (2) the number of shares of Equity received by Applicant was determined on the basis of relative net asset values, using Equity's valuation procedures to value Applicant's assets. Applicant further states that immediately following the closing, it distributed pro rata to its shareholders of record as of the close of business on January 23, 1980, the shares of Equity it received, which resulted in Applicant's shareholders receiving 1.058 shares of Equity for each share of Applicant.

Applicant represents that $61,417 of expenses were incurred in connection with the reorganization and that such expenses were allocated between Applicant and Frank Russell Co., Inc. ("Russell"), its investment adviser, with Russell paying $20,000 and Applicant bearing the remaining $41,417. Applicant estimates that approximately $7,000 of these expenses would have been incurred in the normal course of operations. Applicant states that at this time it has no security holders; it is not a party to any litigation or administrative proceedings; and it is not now engaged and does not propose to engage in any business activities other than those necessary for the winding up of its affairs.

On February 12, 1980, Applicant filed Articles of Dissolution with the Secretary of the State of Delaware. Applicant states that as of April 30, 1980, it had retained assets of $110.85 to cover miscellaneous expenses connected with its dissolution and that as of March 30, 1980, there was a remaining balance of $3,017.73 in a corporate checking account representing thirty dividend checks not yet presented

to the bank for payment, which constitutes the only known liability of Applicant which remains outstanding. Applicant represents that it has made extensive efforts to locate the shareholders entitled to those dividend checks and that Security Management Company (investment adviser of Equity) will continue the efforts to locate such shareholders. In addition, Applicant states that such monies will be held by Russell in a separate bank account until shortly before the end of 1980, at which time the monies will be distributed under applicable escheat laws.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the taking effect of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this 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 the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter 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.

Shirley F. Hollis,

Assistant Secretary

[FR Doc. 80-25226 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11294; (812-4649)]

Chase Fund of Boston, et al.; Filing of an Application for an Order of the Commission Exempting Certain Proposed Exchanges From Section 22(c) of the Act and Rule 22c-1 Thereunder Pursuant to Section 6(c) of the Act and Exempting Such Proposed Exchanges From Section 17(a) of the Act Pursuant to Section 17(b) of the Act

August 8, 1980.

In the matter of The Chase Fund of Boston, Shareholders' Trust of Boston, Chase Special Fund of Boston, Inc., Chase Frontier Capital Fund of Boston, Inc., Phoenix Investment Counsel of Boston, Inc., 535 Boylston Street, Boston, Massachusetts 02116; Phoenix Fund, Inc., Phoenix Capital Fund, Inc., Phoenix Equity Planning Corporation, Phoenix Mutual Life Insurance Company, One American Row, Hartford, Connecticut 06115.

Notice is Hereby Given that Shareholders' Trust of Boston ("Shareholders"), Chase Special Fund of Boston, Inc. ("Special"), Chase Frontier Capital Fund of Boston, Inc. ("Frontier"), Phoenix Fund, Inc. ("Phoenix Fund"), Phoenix Capital Fund, Inc. ("Phoenix Capital") (hereinafter collectively referred to as "the Funds"), and The Chase Fund of Boston ("Chase"), all registered under the Investment Company Act of 1940 ("Act") as open-end, diversified, management investment companies, and Phoenix Investment Counsel of Boston, Inc. ("Phoenix of Boston") and Phoenix Equity Planning Corporation ("PEPCO"), both registered under the Investment Advisers Act of 1940 ("Advisers Act") and Phoenix Mutual Life Insurance Company ("Phoenix Mutual") (the Funds, Chase, Phoenix of Boston, PEPCO and Phoenix Mutual hereinafter referred to as "Applicants"), filed an application on February 1, 1980 and an amendment thereto on June 17, 1980, in connection with the proposed acquisition by Chase, after the recapitalization of Chase as a series fund, of the assets of the Funds ("Proposed Exchanges"). The application requests an order of the Commission (1) pursuant to Section 6(c) of the Act exempting the Proposed Exchanges from the provisions of Section 22(c) of the Act and Rule 22c–1 thereunder, to permit the issuance of shares of the series fund at net asset value, but at a price other than the price next determined after receipt of a purchase order; and (2) pursuant to Section 17(b) of the Act exempting the Proposed Exchanges from the provisions of Section 17(a) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Chase was organized as a Massachusetts business trust on April 7, 1958. As of October 31, 1979, Chase had net assets of approximately $25.5 million beneficially owned by approximately 8,000 shareholders. The primary investment objective of Chase is capital appreciation.

Shareholders was organized as a Massachusetts business trust on March 13, 1948. As of October 31, 1979, Shareholders had net assets of approximately $38 million beneficially owned by approximately 5,800 shareholders. The investment objectives of Shareholders are: (a) the conservation of principal; (b) the production of a reasonable amount of current income; and (c) the possible enhancement of principal income.

Special was organized as a corporation under the laws of the Commonwealth of Massachusetts on February 24, 1969. As of October 31, 1979, Special had net assets of approximately $10.8 million beneficially owned by approximately 4,900 shareholders. The investment objective of Special is capital appreciation. Special may from time to time employ "leverage" by borrowing from banks at fixed amounts of interest and investing the borrowed funds to increase its ownership of securities holdings above the amounts otherwise possible.

Frontier was organized as a corporation under the laws of the Commonwealth of Massachusetts on January 26, 1968, and has qualified as a diversified, open-end investment company since December 1, 1971. As of October 31, 1979, Frontier had net assets of approximately $12.6 million beneficially owned by approximately 6,700 shareholders. Frontier's investment objective is appreciation of investors' capital. Frontier may from time to time employ "leverage" by borrowing from banks at fixed amounts of interest and investing the borrowed funds to increase its ownership of securities holdings above the amounts otherwise possible.

Phoenix Fund was incorporated under the laws of the State of Maryland on January 2, 1970. As of October 31, 1979, Phoenix Fund had net assets of approximately $16.9 million beneficially owned by approximately 2,200 shareholders. Phoenix Mutual owned outright 5.4 percent of the outstanding voting securities of Phoenix Fund as of October 31, 1979. The investment objective of Phoenix Fund is to produce

current income with due regard for both capital enhancement and the need to protect capital values.

Phoenix Capital was incorporated under the laws of the State of Maryland on December 4, 1979. On October 31, 1979, the net assets of Phoemix Capital were approximately $8.9 milliom beneficially owned by approximately 1,700 shreholders. Phoenix Mutual owned by approximately 1,700 shareholders. Phoenix Mutual owned outright 7.6 percent of the outstanding voting securities of Phoenix Capital as of October 31, 1979. Phoenix Capital's investment objective in th seek long-term growth of capital.

Phoenix of Boston is the investment adviser for Chase, Shareholders, Special and Frontier. Phoenix of Boston will be the investment adviser of the series fund following the proposed transactions. All of the outstanding stock of Phoenix of Boston is owned by PEPCO, a wholly owned subsidiary of Phoenix Mutual.

PEPCO is the investment adviser to Phoenix Fund and Phoenix Capital and is the national distributor for Chase and the Funds and will continue to be the national distributor for the series fund following the proposed transactions. PEPCO also performs bookkeeping and pricing services for Chase and the Funds and will perform those services for the series fund. PEPCO also performs bookkeeping and pricing services for Chase and the Funds and will perform those services for the series fund. PEPCO is registered as a broker dealer in approximately 40 states. PEPCO was organized in 1968 and acquired Phoenix of Boston (then known as John P. Chase, Inc.) in 1975.

Phoenix Mutual is a mutual life insurance company formed under the laws of Connecticut. It is in the business of writing ordinary and group life and health insurance and annuities.

Pursuant to a Plan of Recapitalization, Chase proposes to amend its Declaration of Trust to change its name to Phoenix-Chase Series Fund ("Series Fund") and to provide its trustees with the authority from time to time to divide the class of shares into two or more series of shares ("Recapitalization"). The amendment to the Declaration of Trust would establish and designate the following series of shares: Phoenix-Chase Growth Fund, Phoenix-Chase Stock Fund, Phoenix-Chase Balanced Fund, Phoenix-Chase Money Market Fund, and Phoenix-Chase High Yield Fund. Under the amendment to the Declaration of Trust, shares of Chase outstanding as of the effective date of the amendment would become shares of the Growth Fund series. The conversion ratio would be share for share, and all assets and liabilities of Chase would be assets and liabilities of the Growth Fund series. Simultaneously, the registration statement of Chase on Form N–1 would be amended to provide for the public offering of shares of the Growth Fund series, the High Yield Fund series, and the Money Market Fund series. Applicants further state that Phoenix Mutual has made an initial investment of $4,500,000 in shares of the High Yield Fund series and $2,200,000 in shares of the Money Market Funds series, as a result of which it owns over five percent of the shares in the Series Fund.

Applicants further propose that following such Recapitalization and pursuant to the terms of Agreements and Plans of Reorganization ("Plans"), each of the Funds will, on a Closing Date to be determined separately for each of the Funds, transfer substantially all of its assets to one of the series (hereinafter referred to as "the applicable series") of the Series Fund in exchange for shares of beneficial interest in such applicable series ("Proposed Exchanges"). The applicable series for each of the Funds is as follows:

Fund	Phoenix-chase series
Shareholders	Balanced Fund
Phoenix Fund	Balanced Fund
Special	Stock Fund
Frontier	Stock Fund
Phoenix Capital	Growth Fund

Applicants state that it is expected although not required by the Plans that all the Proposed Exchanges will occur simultaneously and that the value of the assets of each of the Funds, for purposes of the Proposed Exchanges, will be net asset value computed as of the Effective Date for each of the Funds. The Effective Date of the Proposed Exchanges will be as of the close of business on the day preceeding the Closing Date. The net asset value of each of the Funds will be computed on the basis of the valuation procedures customarily used by the respective Funds, adjusted for the payment of amounts for expenses, liabilities for dividends or distributions, appraisal rights and any Federal or state income or other taxes arising out of the Proposed Exchanges and dissolution of the Funds. Applicants state that the Money Market Funds series and the High Yield series will not be involved in the Proposed Exchanges.

According to the Plans, the number of shares of the applicable series to be issued will be determined by dividing the aggregate value of the net assets to be transferred by each of the Funds by the net asset value per share of the applicable series on the Effective Date of the Proposed Exchanges. The net asset value per share of the applicable series as of the Effective Date will be determined to the nearest one-hundredth of as full-cent as follows:

a. In the case of any series which has assets prior to the Closing Date, by using the same valuation procedures used by it in respect to the public sale of its shares as set forth in its then current prospectus, or

b. In the case of any other series, by dividing the value of the net assets (determined as set forth above) of the Fund (or, if closings are held with more than one fund on the same day involving the same series, then whichever such fund has the greater number of shareholders) by the aggregate number of its full and fractional shares outstanding as of the Effective Date.

Applications further represent that no adjustment will be made in the number of shares of the Series Fund issued based on unrealized appreciation or depreciation or capital loss carryovers as the boards of directors or trustees of Chase and the Funds have each determined that the benefit or detriment, if any, to their shareholders from such amounts would be too speculative or theoretical to justify such action.

Pursuant to the Plans, each of the Fund will approve a Plan of complete Liquidation and Dissolution pursuant to which the shares of the applicable series received on the Closing Date will be distrubuted by such Fund ratably to its shareholders in exchange for and complete cancellation and retirement of all its issued and outstanding shares and in complete liquidation of such Fund, followed by its dissolution.

According to the application, as supplemented by a letter of August 4, 1980, the amendment of the Declaration of Trust for Chase was approved by Chase's shareholders on July 12, 1980, and such amendment became effective on July 28, 1980. The letter further states that the relevant Plans are expected to be submitted for the approval of the respective shareholders of each Fund prior to October 31, 1980.

The obligations of Chase and each of the Funds in the Proposed Exchanges are conditional upon: the approval of the requisite number of shareholders of Chase and the Funds, respectively, of the amendment to the Declaration of Trust of Chase and of the Plans; the registration with the Commission of the shares of beneficial interest of the Series Fund to be issued; the receipt of a favorable ruling from the Internal Revenue Service or a written opinion of counsel, satisfactory to the parties, as to

the qualification of the Proposed Exchanges as tax-free reorganizations under the Internal Revenue Code; comparable rulings or opinions concerning the tax consequences under Massachusetts law; the issuance of an order from the commission providing an exemption from the applicable provisions of sections 17 and 22 of the Act as amended, or such other orders as such parties' counsel may deem advisable; and certain standard conditions relating to compliance with the terms of the Plans.

Applicants state that it has been agreed that all expenses directly related to the Recapitalization and Proposed Exchanges, over and above the normal annual meeting expenses of Chase and the Funds, will be borne by Phoenix of Boston, the investment adviser of Chase, Shareholders, Special, Frontier and the Series Fund (following the recapitalization of Chase). Applicants further state, however, that each Fund may choose to pay some portion of the reorganization expenses if it is found to be consistent with its representations in the Plans, more particularly, the representation of each party to the Proposed Exchanges that such amounts will be limited as nearly as possible to the amount necessary to preserve its status as a regulated investment company under Subchapter M of the Internal Revenue Code.

Applicants further state that the terms of the proposed investment advisory contract between the Series Fund and Phoenix of Boston provide for an adviser's fee of 0.5 percent of the first $500 million, 0.45 percent of the next $500 million and 0.40 percent of the excess over $1 billion of the average net asset value of the Series Fund for the fiscal year. The advisory fee applicable to the growth Fund series will be 0.45 percent until the total net assets of the Series Fund exceed $100,000,000. According to the application, such amounts will be prorated among the series in proportion to their respective aggregate average of daily net asset values. Applicants further state that a proposed financial agent agreement with PEPCO provides that PEPCO will prepare tax returns and bookkeeping schedules required by the Series Fund's auditors and the at PEPCO will provide essentially the same services relating to the registration and qualification of the Series Fund and its shares with the Commission and the states in which such shares are offered as are now provided in the existing investment advisory agreements of Chase and the funds.

Section 22(c) of the Act, and Rule 22c–1 thereunder together provide, in part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security which is next computed as of the close of trading on the New York Stock Exchange next following receipt of an order to purchase such security.

The Plans provide that the assets of each of the Funds and the net asset value of the applicable series will be valued as of the time of the close of trading on the New York Stock Exchange on the last business day preceding the Closng Date of the Proposed Exchanges. Thus, the "forward pricing" requirement of Section 22(c) of the Act and Rule 22c–1 thereunder will not be met.

Applicants assert that, as a practical matter, valuation of the assets of the Funds and the shares of the applicable series as of the last full business day preceding the Closing Date of the Proposed Exchanges is required in order to determine the number of shares of such applicable series to be issued on the Closing Date. Applicants further represent that, since the Closing Date for each of the Proposed Exchanges will be agreed upon by the respective parties of such Proposed Exchange prior to the time of valuation of the respective assets and shares, and since the net asset values of both the applicable series (if it has assets) and the assets of all the Funds to be acquired on the Closing Date for each Proposed Exchange would be valued at the same time, the proposed valuation procedure will be fair to the shareholders of Chase and the Funds, and will not present any of the potential for abuse that Rule 22c–1 is intended to prevent. Moreover, Applicants state that an investor purchasing or redeeming Fund shares on the Closing Date would not be adversely affected by the proposed valuation procedure since his shares would be valued (as shares of the combined series) in the normal fashion at the price determined as of the close of business on the Closing Date.

Section 69(c) of the Act provides, in part, that the commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants represent that an order exempting Applicants from the provisions of Section 22(c) and Rule 22c–1 thereunder to the extent necessary to enable valuations as of the time set forth above is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the Act.

Section 17(a) of the Act provides, in part, that it shall be unlawfull for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, knowingly to sell to or purchase from such registered investment company any security or other property except securities of which the investment company is the issuer.

Applicants state that no person owns beneficially 25 percent or more of the voting securities of Chase or any of the Funds and, therefore, that Chase and the Funds are not "affiliated persons" or "affiliated persons of affiliated persons" of each other on the basis of presumptive control within the meaning of Section 2(a)(9) of the Act. However, Phoenix of Boston, a wholly-owned subsidiary of PEPCO, is the investment adviser of Chase and all the Funds except Phoenix Fund and Phoenix Capital. PEPCO, which in turn is a wholly-owned subsidiary of Phoenix Mutual, serves as the investment adviser of Phoenix Fund and Phoenix Capital. In addition, the boards of directors and officers of Phoenix Fund and Phoenix Capital are identical, and Phoenix Fund and Phoenix Capital have four officers (but no directors) in common with Chase and the other Funds, and one common director with Frontier. Moreover, Phoenix Mutual shares common directors or officers with all the other Applicants. Accordingly, the Applicants might be deemed to be "affiliated persons" of each other by virtue of being under common control within the meaning of Section 2(a)(3) of the Act and therefore the Proposed Exchanges might be deemed to be prohibited by Section 17(a) of the Act. The application states that, while the Applicants do not necessarily agree with such an interpretation, they have deemed it advisable to resolve any uncertainty by requesting the Commission to exercise its exemptive authority under Section 17(b) of the Act.

Accordingly to the application, it is also possible that Phoenix Fund, Phoenix Capital and the Series Fund might be deemed to be "affiliated persons of an affiliated person" of each other by virtue of Phoenix Mututal's ownership of 5% or more of the stock of Phoenix Fund and Phoenix Capital, and

the initial investment by Phoenix Mututal in the shares of the High Yield Fund series and Money Market Fund series, as a result of which Phoenix Mutual is the owner of over 5% of the shares of the Series Fund. Thus, the Proposed Exchange of the assets of Phoenix Fund and Phoenix Capital for the shares of the Series Fund would be prohibited by Section 17(a) of the Act absent an exemption under Section 17(b). Similarly, Phoenix Mutual's status as an "affiliated person" of the Series Fund would also prohibit Phoenix Mutual from exhanging its shares of Phoenix Fund and Phoenix Capital for shares of the Series Fund without an exemption under Section 17(b) of the Act.

Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned and that the proposed transactions are consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicant state that the terms of the Proposed Exchanges are reasonable and fair and do not involve overreaching by any of the Applicants and that the Proposed Exchanges are consistent with the investment policies of each applicant and with the general purposes of the Act. In this regard, Applicant represent that the Proposed Exchanges are expected to result in certain economies to the shareholders of Chase and the Funds attributable to a consolidation of audit, legal and transfer agent fees, printing costs and lower state tax liability. Accordingly to the application, these expense savings are expected to exceed any additional costs due to greater advisory fees (for shareholders of Chase), the allocation of Blue Sky fees to the Series Fund (currently paid by the national distributor in the case of Chase and Shareholders), and less extensive expense reimbursement provisions (compared to the present contracts of Special, Frontier, Phoenix Fund and Phoenix Capital). Furthermore, Applicants assert that the proposed transactions will provide benefits in terms of the ease with which shareholders can manage their investments to best meet their changing investment and financial needs without ceasing to be shareholders of the Series Fund. Therefore, Applicants asserts that the Proposed Exchanges are expected to benefit Chase and the Funds and their respective shareholders by providing better investment services and opportunities at lower cost. The terms of the Plans as stated in the application provide for the acquisition of the Funds by the Series Fund on the basis of the net asset values of each of the Funds as of the Closing Date for the relevent Proposed Exchange. Thus, the shareholders of all the Funds will receive shares of the applicable series having an aggregate net asset value equal to the net asset value of the shares that such shareholders held prior to the Proposed Exchange.

Applicants assert that the payment of expenses by Phoenix of Boston is consistent with the provisions, policies, and purposes of the Act, that it is to the benefit of the shareholders of Chase and each of the Funds, and that it is fair and proper on the basis of the benefits to Phoenix of Boston as a result of the proposed transactions and the fact that Phoenix of Boston and PEPCO initiated the proposed transactions and submitted them to Chase and the Funds on the basis that they would bear such expenses. Applicants further believe that the provision of the Plans by which Chase and each of the Funds may choose to pay a portion of such expenses, limited as nearly as possible to the amount necessary to assure that such Fund will preserve its status under Subchapter M, gives each party the flexibility to achieve the most beneficial result from all points of view.

Applicants state that the respective Directors and Trustees of each of the Funds and Chase have concluded that there would be no dilution of any shareholder's interest as a result of the Proposed Exchanges, based on the payment of expenses by Phoenix of Boston to the extent stated above, the fact that no undue costs will be incurred in liquidating a portion of any Fund's assets, and because the proposed exchange of assets for shares will be based on relative net asset values. In this regard, Applicants further represent that Phoenix of Boston is currently involved in a class action suit brought by certain former clients of a wholly-owned inactive subsidiary of Phoenix of Boston, Chase Investment Services of Boston, Inc. ("CIS"), which alleges, among other things, violations of the anti-fraud provisions of the Advisers Act and the Securities Exchange Act of 1934. Phoenix of Boston states that, although it considers that this litigation would not currently impair its ability to perform its obligations to the Series Fund, an adverse decision could result in a materially adverse impact on Phoenix of Boston and its operations. Applicants further state, however, that neither Chase nor any of the Funds is a party to this litigation or a member of any class which might be benefited thereby and that, accordingly, the respective Trustees and Directors of Chase and the Funds have concluded that shareholders of neither Chase nor the Funds would suffer any potential dilution in connection with the litigation as a result of the Proposed Exchanges.

Applicants assert that the Proposed Exchanges are consistent with the investment objectives and policies of each of the Funds and Chase. The assets of each of the Funds will be transferred to the applicable series having investment objectives and policies similar to those of the original Fund. The investment objective of the Growth Fund series, into which Chase and Phoenix Capital will be transferred, is to seek long-term growth of capital. The Stock Fund series, into which the assets of Frontier and Special will be transferred, has an investment objective of aggressively seeking capital appreciation. To achieve this objective, the Stock Fund series may employ "leverage" by borrowing money and using such proceeds to increase its investments in securities above the amounts otherwise possible. The Balanced Fund series, into which the assets of Shareholders and Phoenix Fund will be transferred, has the investment objective of providing reasonable income, long-term capital growth, and conservation of capital. Thus, according to the application, the objectives of each of the Funds are virtually identical to the investment objectives of the applicable series. Applicants further state that any significant sales of portfolio securities which occur in connection with the Proposed Exchanges will occur prior to the transfer of such Fund's assets. Moreover, since it has been determined that the portfolios of the various Funds comprising each series are consistent with the investment objectives of that series, Applicants represent that no undue brokerage commissions or other costs will be incurred in liquidating a portion of any Fund's assets.

With respect to the claims of dissenting shareholders of Chase and the Funds under the Plans, Applicants represent that, to the extent that the state law remedy conflicts with that prescribed by the Act, such claims will be processed in accordance with the Act and the rules of the Commission, and that the shareholders of Chase and the Funds will be advised that the state

remedy might therefore be unavailable. Applicants further represent that Phoenix Mutual will participate in the Proposed Exchanges as a shareholder of Phoenix Fund and Phoenix Capital on the same basis as all other shareholders of Chase and the Funds.

Notice if further given, That any interested person may, not later than September 2, 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 interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affadavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–25227 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17054; File No. SR–CBOE–1980–20]

Chicago Board Options Exchange, Inc.; Proposed Rule Change; Self-Regulatory Organizations

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 July 31, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule change as follows:

Text of Substance of the Proposed Rule Change

"Brackets indicate deletions; italics indicate new material"

Trading Rotations

Rule 6.2. No change.

. . . Interpretations and Policies:

.01 No change.

.02 [A trading rotation in any class of option contracts may be completed even though completion of the rotation will result in the effecting of transactions on the Exchange after 3:10 p.m. (Chicago time) provided that either (i) trading in the underlying security opens or reopens after 2:45 p.m. (Chicago time) and promptly thereafter but before 3:10 p.m. (Chicago time) the Exchange commences an opening or reopening rotation in the corresponding options class; or (ii) such rotation is initiated due to the declaration of a "fast market" pursuant to Rule 6.6 and notice of the rotation is publicly disseminated prior to its initiation and not later than 3:00 p.m. (Chicago time).]

Transactions may be effected in a class of options after 3:10 p.m. (Chicago time) if they occur during a trading rotation. Such a trading rotation may be employed in connection with the opening or reopening of trading in the underlying security after 2:30 p.m. (Chicago time), or due to the declaration of a "fast market" pursuant to Rule 6.6. The decision to employ a trading rotation after 2:30 p.m. shall be publicly announced on the trading floor and over the CBOE newswire prior to the commencement of such rotation. No more than one trading rotation may be conducted after 3:10 p.m. Any trading rotation conducted after 3:10 p.m. may not begin until ten minutes after news of such rotation is disseminated. If a trading rotation is in progress and Floor Officials determine that a final trading rotation is needed to assure a fair and orderly close, the rotation in progress shall be halted and a final rotation begun as promptly as possible after 3:10 p.m.

Exchange's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to simplify and to make more realistic the procedures concerning the effecting of transactions after 3:10 p.m. in the following manner:

(a) by providing that the CBOE shall announce to the trading floor and shall disseminate over its newswire the use of any trading rotation commencing after 2:30 p.m.,

(b) by eliminating the 3:00 p.m. deadline for the decision to employ a trading rotation,

(c) by directing that a rotation in progress be halted and a new rotation begun as soon as possible after 3:10 p.m. if a final rotation is required, and

(d) by limiting to one the number of rotations that may be employed after 3:10 p.m. in a class of options and by requiring 10 minutes notice before the start of a rotation after 3:10 p.m. in order to inform the public.

The present restrictions concerning trading rotations that result in the effecting of transactions after 3:10 p.m. have proven unworkable and impractical. At times they have prevented Floor Officials from employing such rotations when conditions warranted them. After 3:00 p.m. Floor Officials are precluded from authorizing a trading rotation to end the day's trading, no matter how chaotic trading may be or how great the benefits a rotation might provide by facilitating an orderly close. Just before 3:00 p.m. Floor Officials face the difficult task of anticipating trading conditions during the next several minutes, so that the use of a trading rotation can be announced by 3:00 p.m. Under such circumstances the Exchange may be committed to conduct trading rotations when market conditions cease to warrant them. For example, on October 10, 1979, a day of record volume on the New York Stock Exchange, CBOE Floor Officials, electing what they believed to be the most prudent course of action, prepared for a continuation of heavy activity after 3:00 p.m. by announcing the use of final trading rotations in options of four underlying securities. After 3:00 p.m., order flows slowed significantly and in none of the classes would a final rotation have been required to ensure an orderly close.

In addition, the rule change provides an opportunity for the execution of orders that arrive on the floor before the close but miss their turn in an opening or reopening rotation that begins after 2:45 p.m. (Chicago time). The following is an example of this problem. XYZ has reopened on the NYSE at 2:50 p.m. An order for Jan 40 XYZ calls arrives on the floor at 2:52 p.m. but misses the Jan 40 XYZ series in the rotation because it is a near-term, in-the-money option that opens first. The reopening rotation is completed after 3:10 p.m., and the order which had been placed 18 minutes before the normal CBOE close has not had an opportunity to be executed. The proposed change would allow the reopening rotation to be halted and a final rotation to be commenced. The delay in trading an option series if the

rotation is halted is meaningless, since stock trading is halted and the final stock price will be the operative one after 3:00 p.m.

The basis under the act for the proposed rule change is section 6(b)(5), the promotion of just and equitable principles of trade.

No comments on this proposed rule change have been solicited or received from members.

The Exchange does not believe that the proposed change will impose any burden on competition.

On or before September 23, 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, Securities and Exchange Commission, 1100 L Street, N.W., 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 September 9, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

August 8, 1980.

[FR Doc. 80-25221 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17060; File No. SR-CSE-80-4]

Cincinnati Stock Exchange; Proposed Rule Change; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exhange 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 July 31, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows: The Cincinnati Stock Exchange's Statement of the Terms of Substance of the Proposed Rule Change.

Rule 11.1 (a) of the Rules of the Exchange is proposed to be amended. Set forth below is the current text of Section 11.1 (a) with brackets used to indicate words to be deleted and itlaics used to indicate words to be added by the amendment: 11.1 (a) Except as provided below, the hours of trading on the Exchange shall be from 10:00 a.m. to [4:15 p.m.] *4:05 p.m.* local Cincinnati time during normal business days.

The Cincinnati Stock EXchange's Statement of Basis and Purpose.

The proposed change in trading hours was approved by the Board of Trustees of The Cincinnati Stock Exchange on July 23, 1980.

The Basis for the proposed rule change is Sec. 6(b)(5) of the Securities Exchange Act in that the principal purpose of the proposed rule change is to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system.

No comments were solicited from Members nor were any received.

The proposed Rule change imposes no burden on competition.

The foregoing Rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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, Washington, D.C. 20549 Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the prinicipal 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 September 9, 1980. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 13, 1980.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-25219 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17055; File No. SR-DTC-80-4]

Proposed Rule Change; Self Regulatory Organizations; Depository Trust Co.

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 August 4, 1980, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Text of Proposed Rule Change

(a) Surcharges for services in securities issues which carry transfer agent fees:

[Deposits..... $1.60 per deposit.
Withdrawals..... $4.30 per withdrawal by Transfer-Transfer Control Form (W/T-TCF)
$5.10 per Urgent Withdrawal Request (COD)].

Transfer agent fee	Deposit surcharge	Withdrawal-by-transfer (WT) surcharge	Urgent certificate-on-demand (COD) surcharge
$3.50 or less per certificate...	$1.25	$4.25	$5.10
More than $3.50 per certificate.....	$3.10	$8.60	$11.20

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to pass along to Participants with activity in securities issues which carry transfer agent fees the costs incurred by The Depository Trust Company (DTC) because of such fees. The transfer agent fees are not imposed by DTC for services rendered to Participants and therefore such fees are

not contained in the Fee Schedule for Major Services.

The proposed rule change relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (the Act) by equitably allocating charges other than dues or fees among DTC Participants.

Comments were not and are not to be solicited from Participants. All Participants have been notified of proposed surcharges by a DTC Important Notice (Exhibit 2 to DTC's filing on Form 19b–4A, SR–DTC–80–4).

DTC perceives no burden on competition by reason of the proposed rule change.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

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, N.W., 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 September 9, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

August 8, 1980.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80–25222 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 500–1]

Electro-Heat Resources Corp; Order of Suspension of Trading

August 7, 1980

It appearing to the Securities and Exchange Commission that there has been recent unusual and unexplained market acivity in the securities of Electro-Heat Resources Corp. and questions have been raised concerning the adequacy and accuracy of publicly disseminated information about orders which Electro-Heat Resources Corp. has received, contracts it has entered into, and negotiations in which it is or was participating, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Electro-Heat Resources Corp.

Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that trading in such securities on a national securities exchange or otherwise is suspended, for the period from 11:00 a.m. on August 7, 1980 and terminating on August 16, 1980 at midnight.

By the Commission.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–25224 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 17057; (SR–MCC–80–1)]

Midwest Clearing Corp. ("MCC"); Order Approving Proposed Rule Change

August 11, 1980

On June 24, 1980, MCC 120 South LaSalle Street, Chicago, Illinois 60603 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 that would permit the chairman of the board of directors to set the salary of the president of the corporation and would designate the chairman as the chief executive officer of the corporation.

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. 34–16944, June 30, 1980) and by publication in the **Federal Register** (45 FR 45992, July 8, 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 clearing agencies and, in particular, the requirements of Section 17A and the rules and regulations thereunder.

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the above mentioned rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–25225 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11296; (812–4669)]

O.N. Market Yield Fund, Inc.; filing of Application for Order Pursuant to Section 6(c) of the Act Granting Exemptions From the Provisions of Section 2(a) (41) of the Act and Rules 2a–4 and 22c–1 Thereunder

August 11, 1980

Notice is Hereby Given that O.N. Market Yield Fund, Inc. ("Applicant") P.O. Box 237 Cincinnati, Ohio 45201, registered under the Investment Company Act of 1940 ("Act") as an open-end, non-diversified, management investment company, filed an application on April 22, 1980, and amendments thereto on June 23, 1980, and July 11, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant's assets to be valued at amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund organized as a Maryland corporation; that O.N. Investment Management Company, a wholly owned subsidiary of the O.N. Equity Sales Company ("Equity Sales"), serves as its investment adviser. Equity Sales is a wholly owned subidiary of The Ohio National Life Insurance Company ("Ohio National"). Applicant further states that although a registration statement relating to its securities has been filed under the Securities Act of 1933, such securities will not be offered or sold directly to the public. Sales will be restricted to Ohio National, its affiliated companies and separate accounts, and pension and profit sharing plans of such companies. According to the application, Applicant's investment objective is to provide investors with maximum current income consistent with liquidity and preservation of capital. Applicant states that it will seek to achieve this objective by investing in a variety of high quality money market instruments.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (i) with respect to securities for which market quotations are readily available, the market value of such securities, and (ii) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of this application, the Commission expressed its view that, among other things, (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant states that purchasers of annuity contracts to be funded by its shares, including sophisticated individual, institutional and professional investors, seek stability of principal and a steady flow of predictable and competitive investment income. Applicant submits that the amortized cost method of valuation will enable it to achieve these investment objectives. it asserts that by maintaining a portfolio of high quality money market instruments with a dollar weighted average portfolio maturity of 120 days or less, it will avoid the possiblity of significant volatility in the value of portfolio securities and will be able to offer its shareholders the stability they desire and yield commensurate with yields available in the general money market. Applicant further asserts that by restricting its portfolio to securities with a relatively short maturity, it will avoid the problems of overvaluation and undervaluation with which the Commission was concerned in Investment Company Act Release No. 9786.

Applicant represents that for the foregoing reasons, its Board of Directors has determined in good faith that, in light of Applicant's characteristics, the amortized cost method of valuation, absent unusual circumstances, is appropriate and preferable to the use of a market based valuation method, and reflects the fair value of portfolio securities. Applicant further represents that it will continually monitor valuations indicated by methods other than amortized cost in order to effect any changes in the valuation method necessary to assure that portfolio securities are valued in a fair manner in view of all pertinent factors. Accordingly, Applicant requests exemptions from the provision of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit its assets to be valued as set forth in the application, as described above, whether or not market quotations are available.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or the 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. Applicant submits that the granting of the requested exemptions would be consistent with these standards.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which its Board of Directors 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.

2. Applicant will maintain a dollar weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value of $10.00 per share; provided, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar weighted average portfolio maturity in excess of 120 days.[1]

3. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $10.00 per share.

4. Included within the procedures to be adopted by Applicant's Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $10.00 amortized cost price per share, and the maintenance of records of such review.

(b) In the event such deviation from the $10.00 amortized cost price exceeds ½ of 1 percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes the extent of any deviation from Applicant's $10.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

5. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the

[1] In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

procedures (and any modifications thereto) described in paragraph 3 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Director's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 4(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is Further Given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on this 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 the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter 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 delgated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–25230 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11301; (812–4628)]

Paine, Webber Municipal Bond Fund First Series, et al.; Filing of Application for an Order Pursuant to Section 11 of the Act Permitting Certain Exchange Transactions and Pursuant to Section 6(c) of the Act Exempting Such Exchange Transactions From the Provisions of Section 22(d) of the Act

August 12, 1980

In the matter of Paine, Webber Municipal Bond Fund First Series, Paine, Webber Municipal Bond Fund Second Series, Paine, Webber Municipal Bond Fund Third Series, The Municipal Bond Fund, Series One through Series Forty-Three, The Municipal Bond Trust, Series Forty-Four and subsequent series, The Municipal Bond Trust, Multi-State Program Series One and subsequent series, The Corporate Bond Trust, Series One and subsequent series, The Municipal Bond Trust, Puerto Rico Series One and subsequent series, The Municipal Bond Trust, Multiple Maturity Series One and subsequent series, and Paine Webber, Jackson & Curtis Incorporated 1221 Avenue of the Americas, New York, New York 10023.

Notice is Hereby Given that Paine, Webber Municipal Bond Fund First Series; Paine, Webber Municipal Bond Fund Second Series, Paine, Webber Municipal Bond Fund Third Series (the "Paine Webber Series"); The Municipal Bond Fund, Series One through Series Forty-Three, The Municipal Bond Trust, Series Forty-Four and subsequent series (the "National Series"); The Municipal Bond Trust, Multi-State Program Series One and subsequent series (the "Multi-State Series"); The Corporate Bond Trust, Series One and subsequent series (the "Corporate Series"); The Municipal Bond Trust, Puerto Rico Series One and subsequent series (the Puerto Rico Series); The Municipal Bond Trust, Multiple Maturity Series One and subsequent series (the "Multiple Maturity Series") (collectively referred to as the "Trusts"); and Paine, Webber, Jackson & Curtis Incorporated (the "Sponsor") (the Trusts and the Sponsor collectively referred to as "Applicants") filed an application on March 12, 1980, and an amendment thereto on July 14, 1980, for an order of the Commission (1) pursuant to Section 11 of the Act permitting the exchange of units of certain series of the Trusts for units of other series of the Trusts, pursuant to an exchange option, at net asset value plus a sales charge of $15 per unit, and (2) pursuant to Section 6(c) of the Act exempting such exchange transactions from the provisions of section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Paine Webber Series and the National Series consist of separate unit investment trusts created under the laws of the State of New York by separate trust indentures and agreements among the Sponsor, United States Trust Company of New York as trustee (the "Trustee") and Standard & Poor's Corporation as evaluator (the "Evaluator"). The investment objectives of the trusts comprising the Paine Webber Series and the National Series are federally tax exempt income, and conservation of capital through investment in a fixed portfolio of interest-bearing municipal bonds. The Multi-State Series consists of separate unit investment trusts created under the laws of the State of New York by separate trust agreements among the Sponsor, the Trustee and the Evaluator. The portfolios of the trusts comprising the Multi-State Series contain interest-bearing municipal bonds issued by governmental entities located within the state for which each trust is named and the investment objective of each trust is conservation of capital, and interest income that is exempt from federal, state and local income taxation for residents of the state for which such trust is named. The Corporate Series consists of separate unit investment trusts created under the laws of the State of Massachusetts by separate trust agreements among the Sponsor, the Trustee and Interactive Data Corporation as evaluator. The portfolio of each trust comprising the Corporate Series contains primarily bonds, debentures, notes and other debt securities issued by corporations. A limited portion of the portfolios of the Corporate Series may, under certain circumstances, contain long-term obligations issued or guaranteed by the United States or agencies or instrumentalities thereof, or corporate obligations which have been privately placed. The investment objective of each trust comprising the Corporate Series is to provide interest income consistent with the preservation of

capital. The trusts which comprise the Paine Webber Series, the National Series, the Multi-State Series and the Corporate Series are each registered separately under the Act as unit investment trusts.

The trusts which will comprise the Puerto Rico Series and the Multiple Maturity Series are not currently in existence. Applicants represent, however, that they anticipate those trusts will be organized and will register under the Act. Applicants state that the portfolio of each trust comprising the Puerto Rico Series is expected to consist solely of interest-bearing municipal obligations issued by governmental entities located within the Commonwealth of Puerto Rico and that the investment objective of the trusts in the Puerto Rico Series will be conservation of capital, and interest income which is exempt from federal, state and local income taxation. Applicants also represent that the Multiple Maturity Series will consist of one unit investment trust with a portfolio which will contain interest-bearing municipal obligations with long-term maturities of not less than fifteen years, and another separate trust with a portfolio which will contain municipal obligations with intermediate-term maturities of not more than fifteen years.

Applicants state that, although the Sponsor is not obligated to do so, the Sponsor intends to maintain a market for units of each Trust and continuously offer to purchase any such unit at a price based on the aggregate offering price of the underlying securities in the portfolio of the Trust plus accrued interest. Applicants also state that the Sponsor may discontinue such purchases at any time. In that event, the Sponsor may nonetheless purchase units of the trusts at a price based on the current redemption price of those units. However, if the Sponsor repurchases units of a Trust in the secondary market at prices below the offering prices of the underlying bonds in the portfolio of such Trust, it will not resell those units in the secondary market.

Applicants state that the Sponsor proposes to allow purchasers of units of any of the Trusts ("Certificateholders") to exchange the units which they hold for units of other series of the same Trust or for units of other Trusts that the Sponsor has repurchased in the secondary market and has not tendered to the Trustee for redemption (collectively, the "Exchange Trusts"). The Sponsor proposes to permit such exchanges at net asset value plus a sales charge per unit exchanged (the "Exchange Option"). Applicants represent that the Exchange Option would be available only with respect to units of various series of the Exchange Trusts for which a secondary market is being maintained. A Certificateholder wishing to dispose of such units would be able to exchange them for units of another series of the same Trust or for units of any series of any other Exchange Trust. Applicants state that although it is not presently contemplated that Certificateholders will be permitted to exchange their units either for units of other series of the same Trust or for units of any series of the Exchange Trusts that are available on original issue, the Sponsor may, at some future date, permit such exchanges. Applicants state that while the Sponsor intends to hold the Exchange Option open under most circumstances, the Sponsor will reserve the right to modify, suspend or terminate the Exchange Option at any time without further notice to Certificateholders.

Applicants represent that an exchange effected pursuant to the Exchange Option would operate in a manner essentially identical to any secondary market transaction, except that the Sponsor proposes to impose a reduced sales charge on each exchange transaction. When a Certificateholder notifies the Sponsor of his desire to exercise the Exchange Option, he will receive a current prospectus for one or more series of the Exchange Trusts in which the Certificateholder has indicated an interest and for which the Sponsor has units, acquired in the secondary market, available to offer to the Certificateholder. Applicants state that, under the Exchange Option, a Certificateholder would not be permitted to make up any difference between the amount representing the units being submitted for exchange and the units being acquired, and would be permitted to acquire only whole units of the Exchange Trust. Applicants state that any excess amounts representing the sales price of units submitted for exchange would be resubmitted to the Certificateholder.

Units of any series of the Trusts repurchased by the Sponsor in the secondary market are normally resold to the public at a public offering price based on the offering side evaluation of the underlying portfolio securities in the portfolio of the Trust plus a sales charge of 3.846% of the public offering price. The Sponsor proposes to sell units of the Exchange Trusts pursuant to the Exchange Option at a price equal to the offering side evaluation of the underlying portfolio securities of the Exchange Trust divided by the number of units outstanding (the "Unit Offering Price"), plus a charge of $15 per unit. Applicants maintain that such $15 charge can be expected to approximate about 1½% of the Unit Offering Price. The Sponsor reserves the right to increase or decrease such charge from time to time in the event of fluctuations in the costs of professional assistance and operational expenses in connection with its exchange transactions. Applicants state that a Certificateholder who has purchased units of a series and paid a per unit sales charge which was less than the per unit sales charge of the series of the Exchange Trust for which such Certificateholder desires to exchange would be permitted to exercise the Exchange Option at the Unit Offering Price plus the sales charge of $15 per unit, provided that such Certificateholder has held his units for a period of at least eight months. Any Certificateholder who has not held the units to be exchanged for an eight month period would be permitted to exchange such units for units of an Exchange Trust only at the Unit Offering Price plus a sales charge based on the greater of $15 per unit or an amount which, together with the initial sales charge paid in connection with the acquisition of the units being exchanged, equals the sales charge of the series of the Exchange Trust for which such Certificateholder desires to exchange, determined as of the date of the exchange.

Section 11(c) of the Act provides, in pertinent part, that exchange offers involving registered unit investment trusts are subject to the provisions of Section 11(a) of the Act irrespective of the basis of exchange. Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such a company to make, or cause to be made, an offer to the holder of a security of such company or 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. Applicants request an order, pursuant to Section 11 of the Act, approving the terms of the Exchange Option.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security isued by such

company to any person except at a current offering price described in the prospectus. The sales charge described in the prospectus of each of the Trusts for effecting regular secondary market transactions is greater than the charge which would be applicable to transactions under the Exchange Option. Rule 22d–1 under the Act permits certain variations in sales charges, none of which, it is alleged by Applicants, will be applicable to transactions under the Exchange Option.

Section 6 (c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provision of the Act or any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order, pursuant to Section 6(c) of the Act, exempting exchanges of units of the Trusts made pursuant to the Exchange Option from the provisions of Section 22(d) of the Act.

Applicants submit that a person desiring to dispose of units of one series and acquire units of another series of the Exchange Trusts may wish to do so for a number of reasons, such as a change in his or her particular investment goals or requirements, or in order to take advantage of possible tax benefits flowing from the exchange. Applicants state that the purpose of the Exchange Option is to permit the Sponsor to pass on to the Certificateholder the cost savings resulting from reductions in time and expense related to advice, financial planning and operational expense required for the Exchange Option. Accordingly, Applicants maintain that the proposed reduction in sales charge would be beneficial to all Certificateholders.

Applicants assert that requiring Certificateholders, who hold units of a series of a Trust which were acquired at a lower sales charge than the sales charge with respect to the units of the Exchange Trust to be acquired under the Exchange Option, to pay an adjusted sales charge for such exchange during the first eight months in which they have held the units to be exchanged maintains equitable treatment of various Certificateholders. For example, Applicants maintain that it may be possible, under certain circumstances, for a Certificateholder to acquire units of a series of a Trust with a lower sales charge and immediately to convert such units into other units of the same Trust or into units of a series of another Exchange Trust and to pay a lower total sales charge than a Certificateholder purchasing units of such Trust directly. Applicants state that, under normal circumstances, this situation is unlikely, since the initial sales charge on direct purchases of units of series with a lower sales charge (currently 3.846% of the public offering price) plus the conversion sales charge ($15 per unit, or approximately 1½% of the public offering price) usually will exceed the sales charge related to direct purchases of units of series of that Trust. However, if the price of the units of a series of an Exchange Trust were to increase sharply, the $15 sales charge on an exchange could represent less than the difference between the lower sales charge and the higher sales charge. Thus, Applicants argue that an exchanging Certificateholder could obtain an unfair advantage when compared to investors making direct purchases of units of a series of such Trust. Applicants submit that, after a Certificateholder of a series with a lower sales charge has held units for a period of eight months, the discriminatory nature of permitting that person to effect an exchange transaction at a reduced sales charge is not as compelling, and thus the possible abuse outlined above is no longer material.

Notice is Further Given that any interested person may, not later than September 8, 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 interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As aprovided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion.

Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–25220 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 11296; (811–2596)]

Trinwall Bond Fund, Inc.; Application Pursuant to Section 8(f) of the Act for an Order Declaring That Applicant has Ceased To Be an Investment Company

August 8, 1980.

Notice is hereby given that Trinwall Bond Fund, Inc. ("Applicant") 61 Broadway, New York, New York 10006, an open-end, diversified, management company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 17, 1980, pursuant to Section 8(f) of the Act and Rule 8f–1 thereunder, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Maryland corporation, states that it filed a registration statement under Section 8(b) of the Act on or about September 29, 1975. Applicant states that on February 11, 1980, pursuant to an agreement approved by Applicant's shareholders on February 8, 1980, The Putnam Income Fund, Inc. ("Putnam") acquired substantially all of Applicant's assets in exchange for Putnam common stock, and Applicant mailed a confirmation to each shareholder reflecting his pro rata number of such shares.

Applicant submits that it has no assets, nor any debts or other liabilities outstanding. Applicant also submits that it is not a party to any litigation or administrative proceedings. Applicant states that it is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs. According to the application, it is contemplated that articles of dissolution will be filed in Maryland in the near future.

Section 8(f) of the Act provides, in part, that when the Commission upon

application finds that a registered investment company has ceased to be an investment company, it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 2, 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 interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80–25223 Filed 8–18–80; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21678; (70–6475)]

Vermont Yankee Nuclear Power Corp.; Proposal To Issue and Sell Short-Term Promissory Notes; Order Authorizing Solicitation of Proxies

August 12, 1980.

Notice is hereby given that Vermont Yankee Nuclear Power Corporation ("Vermont Yankee"), 77 Grove Street, Rutland, Vermont 05701, a subsidiary of New England Electric System and Northeast Utilities, both registered holding companies, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6 of the Act and Rules 62 and 65 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transactions.

Vermont Yankee's Articles of Association currently provide that, without the vote of a majority of the outstanding cumulative preferred stock, Vermont Yankee shall not issue or incur unsecured indebtedness if, immediately thereafter, (i) the aggregate principal amount of all unsecured indebtedness would exceed 20% of the total principal amount and par value of the other securities of Vermont Yankee or (ii) the aggregate principal amount of all short-term unsecured indebtedness of Vermont Yankee would exceed 10% of such total. As of April 30, 1980, the total principal amount and par value of the other securities of the Company equaled $15,866,802.

Vermont Yankee projects that its cash needs in connection with the acquisition of an inventory of uranium, the fabrication of nuclear fuel and the installation in its plant of capital improvements necessary to meet requirements of the Nuclear Regulatory Commission will amount to $27,400,000 for the balance of 1980, and $32,200,000 and $28,300,000 for 1981 and 1982, respectively. While Vermont Yankee intends ultimately to finance these needs through appropriate fuel financing and other long-term arrangements, the present state of the capital markets and general economy make the timing of such financings important. Therefore Vermont Yankee desires to obtain the necessary vote of its preferred stock to permit it to increase its unsecured indebtedness so that initially some of these needs may be met by such borrowings, thereby giving Vermont Yankee more flexibility in the timing of the placement of its long-term financings.

Vermont Yankee intends to call a special meeting of its preferred stockholders and to solicit proxies by mailing to each holder a letter, solicitation statement and proxy. Such mailing will be followed by oral solicitations of certain stockholders and brokers by officers and other regular employees of Vermont Yankee. In addition, Vermont Yankee will retain the services of Georgeson & Co., New York, New York, to act as Vermont Yankee's agent in soliciting proxies from preferred stockholders by oral follow-up soliciations.

Vermont Yankee currently maintains lines of credit in the principal amount of $8 million each with The First National Bank of Boston and Chase Manhattan Bank ("Banks"). As of April 30, 1980, Vermont Yankee had $4.2 million in loans outstanding under those lines. As of that date, 5% of the principal amount and par value of the other securities of the Company equaled $7,082,000.

As described above, Vermont Yankee will have substantial capital needs during 1980 and beyond. If it is successful in obtaining the necessary preferred stockholder vote, Vermont Yankee intends to seek from the Banks (and possibly other banks also) increased lines of credit until lines aggregating a maximum of $32 million have been obtained and will also investigate the possibility of borrowing from its sponsor companies pursuant to the Capital Funds Agreements. Borrowings under the lines of credit would be made during a period not to exceed three years and would be evidenced by Vermont Yankee's promissory notes, maturing up to three months after their date of issue and bearing interest at the lenders' prime rate. The Banks presently require Vermont Yankee to maintain compensatory balances equal to 7.5% of the lines and 7.5% of any borrowings thereunder. Assuming full borrowings under the lines and a prime rate of 12% per annum, the effective costs of borrowings would be 14.1%. Borrowings from sponsors under the Capital Funds Agreements would be at a rate not less than 1½% above the prime rate.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at $10,000, including legal fees of $3,000 and soliciting agents fee of $3,500. The Vermont Yankee Public Service Board has jurisdiction over the issuance of short-term debt in excess of 12% of Vermont Yankee's total assets. It is stated that no other state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 5, 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 the filing 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 declarant 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 declaration, as amended or as it may be further amended, may be granted and 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 or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of proxies of Vermont Yankee's preferred shareholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered that the declaration regarding the proposed solicitation of proxies of Vermont Yankee's preferred stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-25228 Filed 8-18-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/311]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on September 3 of the Working Group on International Data Flows of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 2:00–5:00 p.m. The meeting will be held in Room 1105 of the State Department, 2201 C Street, N.W., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to discuss, first, a report of the U.S. delegation to the Intergovernmental Bureau of Informatics meeting in Rome June 23–27 and, second, the preparations of the U.S. delegation to the OECD Working Group on Information, Computers and Communication Policy (ICCP) meeting to be held September 9–11 in Paris.

Requests for further information on the meeting should be directed to Jack Orlando, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–1717.

Members of the public wishing to attend the meeting must contact Mr. Orlando's office in order to arrange entrance to the State Department building.

The Chairman of the working group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: August 8, 1980.

R. M. Roberts,

Acting Executive Secretary.

[FR Doc. 80-25155 Filed 8-18-80; 8:45 am]

BILLING CODE 4710-07-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 162
Tuesday, August 19, 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).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Equal Employment Opportunity Commission	2
Federal Home Loan Bank Board	3
Federal Reserve System	4
National Commission on Libraries and Information Science	5
Nuclear Regulatory Commission	6, 7
Overseas Private Investment Corporation	8
Parole Commission	9, 10
Harry S Truman Scholarship Foundation	11

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., August 15, 1980.

PLACE: 2033 K Street NW., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matter.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1551-80 Filed 8-15-80; 9:45 am]

BILLING CODE 6351-01-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

AGENCY HOLDING THE MEETING: Equal Employment Opportunity Commission.

TIME AND DATE: 2 p.m. (Eastern Time), Thursday, August 21, 1980.

PLACE: Commission Conference Room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the Public

1. Proposed revisions to several sections of Volume 1 of the Compliance Manual.
2. Report on Commission Operations by the Executive Director.

Closed to the Public

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202 634-6748).

This Notice Issued August 15, 1980.

[S-1552-80 Filed 8-15-80; 10:03 am]

BILLING CODE 6570-06-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10:30 a.m., August 15, 1980.

PLACE: 1700 G Street NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall, (202-377-6677).

MATTERS TO BE CONSIDERED: Application to Increase Accounts of an Insurable Type by Purchase of Branch Offices of El Dorado Savings and Loan Association, Placerville, California by Westdale Savings and Loan Association, Los Angeles, California.

No. 379, August 14, 1980.

[S-1555-80 Filed 8-15-80; 12:21 pm]

BILLING CODE 6720-01-M

24

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Friday, August 22, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: August 14, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-1553-80 Filed 8-15-80; 10:14 am]

BILLING CODE 6210-01-M

5

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME: 3 to 6 p.m.

DATE: September 18, 1980.

PLACE: Sheraton Ritz Hotel, Minneapolis, Minnesota.

STATUS: Closed.

MATTERS TO BE DISCUSSED: Executive Session (closed meeting Sec 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Mary Alice Hedge Reszetar, Associate Director, NCLIS Area Code 202-653-6252.

Mary Alice Hedge Reszetar,

Associate Director, NCLIS.

August 12, 1980.

[S-1550-80 Filed 8-15-80; 9:33 am]

BILLING CODE 7527-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, August 20, 1980.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Wednesday, August 20

10 a.m.

Time Reserved for Discussion of Management-Organization and Internal Personnel Matters (Approximately 2 hours—closed—EX 2 and 6).

2 p.m.

Discussion of North Anna (Approximately 1½ hours—public meeting).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

AUTOMATIC TELEPHONE SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should

reverify the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

August 13, 1980.

[S-1559-80 Filed 8-15-80; 2:05 pm]

BILLING CODE 7590-01-M

7

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Thursday, August 21, 1980.

PLACE: Commissioners' Conference Room, 1717 H St., N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.

1. Discussion of Sequoyah (Approximately 1½ hours—public meeting).
2. Affirmation Session (Approximate 10 minutes—public meeting).
   a. Delegation of Rulemaking Authority.
   b. Physical Protection of Category II Material in Transit.

ADDITIONAL INFORMATION: By vote of 3–0 (Chairman Ahearne not present) on August 14, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business requires that the Affirmation of Certification from Licensing Board in TMI Restart Proceeding, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634–1410.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498, Those planning to attend a meeting should reverify the status on the day of the meeting.

Roger M. Tweed,

Office of the Secretary.

August 14, 1980.

[S-1558-80 Filed 8-15-80; 2:05 pm]

BILLING CODE 7590-01-M

8

OVERSEAS PRIVATE INVESTMENT CORPORATION.

Meeting of the Board of Directors

TIME AND DATE: Meeting of the OPIC Board of Directors: Tuesday August 26, 1980 at 9 a.m. (Closed Portion); 11 a.m. (Open Portion).

PLACE: Offices of the Corporation. Seventh (7th) floor Board Room; 1129 20th Street NW., Washington, D.C.

STATUS: The first part of the meeting from 9 a.m. to 11 a.m. will be closed to the public. The open portion of the meeting will start at 11 a.m.

MATTERS TO BE CONSIDERED:

(Closed to the Public: 9 a.m. to 11 a.m.)

1. Finance Project in African Country.
2. Finance Project in East Asia Country.
3. Finance Project in East Asia Country.
4. Finance Project in Central American Country.
5. Insurance Project in African Country.
6. Insurance Project in East Asia Country.
7. Insurance Project in MIddle East Country.
8. Insurance Project in Middle East Country.
9. Insurance Project in Middle East Country.
10. Claims Report
11. Information Reports
12. Information Report (Insurance).

FURTHER MATTERS TO BE CONSIDERED:

(Open to the Public: 11 a.m.)

1. Approval of Minutes of Previous Board Meeting.
2. Confirmation of Scheduled Board Meetings.
3. Policy: Developmental Emphasis for OPIC Programs.
4. Investors' Communications Program.
5. The OPIC Budget; Proposed for FY 82 and Amended for FY 81.
6. Allocation to Reserves.
7. Financial Statements.
8. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 632–1839.

Elizabeth A. Burton,

Corporate Secretary.

August 15, 1980.

[S-1554-80 Filed 8-15-80; 11:04 am]

BILLING CODE 3210-01-M

9

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Wednesday, August 13, 1980, at 9:30 a.m.

PLACE: Room 826A, 320 First Street, NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: On August 12, 1980, the Commission determined that the above meeting be continued to 10:30 a.m. on Friday, August 15, and that the location be changed to Room 724, 320 First Street, NW., for consideration of case referrals from Regional Commissioners. The above change is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Analyst, National Appeals Board, U.S. Parole Commission, (202) 724–3094.

[S-1557-80 Filed 8-15-80; 2:04 pm]

BILLING CODE 4410-01-M

10

PAROLE COMMISSION:

TIME AND DATE: Tuesday, August 26, 1980, at 9:30 a.m.–5:30 p.m.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

CHANGES IN THE MEETING: On August 13, 1980, the Commission determined that the consideration of case referrals be interrupted between 11 a.m. and 12 noon on August 26, 1980, and that the meeting shall go into open session during that time for a general discussion of administrative matters concerning the operation of the U.S. Parole Commission. From 12:00 noon until 5:30 p.m., consideration of case referrals at a closed session shall continue. The above change is being announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Analyst, National Appeals Board, U.S. Parole Commission, (202) 724—3094.

[S-1556-80 Filed 8-15-80; 2:04 pm]

BILLING CODE 4410-10-M

11

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

TIME AND DATE: 10 a.m., Monday, September 8, 1980.

PLACE: Board Room, 712 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Call meeting to order. Check quorum.
2. Adoption of proposed agenda.
3. Approval of minutes of April 14, 1980 meeting.
4. Report of Chairman—
   (a) Remarks on Fiscal Year 1980 Annual Report.
   (b) Discussion on Educational Testing Service.
   (c) Discussion of awards ceremony.
   (d) Discussion of proposed date of next Board meeting, 10:00 a.m., Monday, April 13, 1981.
   (e) Resolution to empower Chairman to renew service contracts and conclude other Foundation business.

5. Report of Executive Secretary—
(a) Discussion of current status of Truman Scholars.
(b) Discussion of selection of 1981 Truman Scholars.
(c) Report on work-experience program.
(d) Report on Foundation operations.
6. New business.

CONTACT PERSON FOR MORE INFORMATION: Malcolm C. McCormack, Executive Secretary, telephone, 202–395–4831.

Malcolm C. McCormack,

Executive Secretary.

[S–1560–80 Filed 8–15–80; 4:27 pm]

BILLING CODE 6115–02–M

federal register

Tuesday
August 19, 1980

Part II

Federal Emergency Management Agency

Procurement; Policies and Procedures

FEDERAL EMERGENCY MANAGEMENT AGENCY

41 CFR Chapter 44

[Docket No. FEMA-MISC-41-44]

Procurement

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This part provides policies and procedures for the acquisition of personal property and nonpersonal services (including construction) by the Federal Emergency Management Agency (FEMA). They implement the Federal Procurement Regulations in accordance with 41 CFR 1–1.008.

DATE: This rule is effective August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Steve Goodman, Acquisition Management Division, Federal Emergency Management Agency, Washington, D.C. 20472. Telephone (202) 653–7270.

SUPPLEMENTARY INFORMATION: FEMA published interim rules dealing with procurement in the **Federal Register** on December 6, 1979 (44 FR 70424). This established Chapter 44 of Title 41 of the Code of Federal Regulations.

No substantial public comments were received in response to the interim rule.

Several minor typographical errors have been corrected.

Subparts 1.600 Debarred, Suspended and Ineligible Bidders and 4.900—Unsolicited Proposals have been added to meet the implementation requirements of 41 CFR 1–1.606(a) and 1–4.903 respectively. Subpart 1.5000—Criteria for use of Procurement Contracts Versus Assistance Instruments has been added to aid in the selection of the appropriate instrument as required by Public Law 95–224 "The Federal Grants and Cooperative Agreement Act of 1977". Subsections 7.5002–7, 7.5002–8 and 7.5002–11 have been deleted to avoid duplication of like or similar provisions of 41 CFR 1–7. Subsection 7.5002–1 "Rights in Data" has been replaced with 7.5002–1 "Rights in Technical Data and Computer Software". In addition, Subsections 7.5002–13 "Cost Accounting Standard Withdrawal" and 7.5002–14 "Rights in Technical Data Specific Acquisition" have been added.

These changes deal with public contracts and publication of the modifications as a proposal for public comments is not required by 5 U.S.C. 553. The new material is needed immediately to carry out FEMA business.

Accordingly, Chapter 44 of Title 41 is amended by replacing those rules published December 6, 1979 at 44 FR 70424 with the following:

CHAPTER 44—FEDERAL EMERGENCY MANAGEMENT AGENCY

Part
44–1 General.
44–2 Procurement by formal advertising.
44–3 Procurement by negotiation.
44–4 Special types and methods of procurement.
44–7 Contract clauses.
44–11 Federal, State and local taxes.
44–13 Government property.
44–15 Contract cost principles and procedures.
44–16 Procurement forms.
44–30 Contract financing.

PART 44–1—GENERAL

Sec.
44–1.000 Scope of part.

Subpart 1.0—Regulation System

44–1.001 Scope of subpart.
44–1.002 Purpose.
44–1.003 Authority.
44–1.004 Applicability.
44–1.004–50 Relationship to the FPR.
44–1.005 Exclusions.
44–1.006 Issuance.
44–1.006–1 Code arrangement.
44–1.006–2 Publication.
44–1.006–3 Copies.
44–1.006–4 Coordination.
44–1.007 Arrangement.
44–1.007–1 General plan.
44–1.007–2 Numbering and titling.
44–1.007–3 Citation.
44–1.009 Deviation.
44–1.009–1 Description.
44–1.009–2 Procedure.

Subpart 1.2—Definition of Terms

44–1.201 Definitions.
44–1.202 Agency.
44–1.204 Director.
44–1.205 Procuring office.
44–1.206 Head of the procuring activity.
44–1.250 Contractor.
44–1.251 Subcontractor.
44–1.252 Supplies and property.
44–1.253 Personal services.
44–1.254 Nonpersonal services.
44–1.255 Program office.
44–1.256 Project Officer.
44–1.257 Interagency agreement.
44–1.258 Memorandum of Understanding.

Subpart 1.3—General Policies

44–1.302 Procurement sources.
44–1.302–1 General.
44–1.302–3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.
44–1.305 Specifications.
Sec.
44–1.305–6 Military and departmental specifications.
44–1.317 Noncollusive bids and proposals.

Subpart 1.4—Procurement Responsibility and Authority

44–1.400 Scope of subpart.
44–1.401 Responsibility of the Head of the Procuring Activity.
44–1.404 Selection, designation and termination of designation of Contracting Officers.
44–1.404–1 Selection.
44–1.404–2 Designation.

Subpart 1.6—Debarred, Suspended, and Ineligible Bidders

44–1.600 Scope of subpart.
44–1.602 Establishment, maintenance and distribution of a list of concerns or individuals debarred, suspended or declared ineligible.
44–1.602–1 Bases for entry on the debarred, suspended and ineligible bidders list.
44–1.603 Treatment to be accorded firms and individuals in debarred, suspended or ineligible status.
44–1.604 Causes and conditions applicable to determination of debarment.
44–1.604–1 Procedural requirements relating to the imposition of debarment.
44–1.605 Suspension of bidders.
44–1.605–1 Causes and conditions under which FEMA may suspend contractors.
44–1.606 Agency procedures.

Subpart 1.7—Small Business Concerns

44–1.700 General.
44–1.704 FEMA direction and operation.
44–1.704–1 Small business advisor.
44–1.704–2 Small business specialists.
44–1.705 Cooperation with the Small Business Administration.
44–1.705–3 Screening of procurements.
44–1.706 Procurement set-asides for small business.
44–1.706–2 Review of set-aside recommendations initiated by small business specialists.
44–1.706–3 Withdrawal or modification of set-asides.
44–1.706–5 Small business class set-asides.
44–1.706–50 Review of class set-aside programs.
44–1.713 FEMA contracts with the Small Business Administration.
44–1.750 FEMA responsibilities and functions pursuant to Section 8(a) of the Small Business Act.

Subpart 1.8—Labor Surplus Area Concerns

44–1.800 Scope of subpart.
44–1.803 FEMA direction and operation.
44–1.803–1 Labor surplus area advisor.
44–1.803–2 Labor surplus area specialists.
44–1.803–3 Screening of procurements.
44–1.803–4 Review of set-aside recommendations initiated by labor surplus area specialists.
44–1.804 Partial set-asides for labor surplus area concerns.
44–1.804–4 Withdrawal of set-asides.
44–1.804–50 Modifications of set-asides.

Subpart 1.10—Publicizing Procurement Actions

44–1.1003–2 General requirements.

Sec.

44–1.1003–4 Synopsis of subcontract opportunities.

Subpart 1.13—Small Business Concerns Owned and Controlled by One or More Socially and Economically Disadvantaged Individuals

44–1.1300 Scope of subpart.
44–1.1302 Policy.
44–1.1303 Solicitation representation.

Subpart 1.50—Criteria for Use of Procurement Contracts Versus Assistance Instruments

44–1.5000 Scope of subpart.
44–1.5001 Procurement contracts.
44–1.5001–1 Definition.
44–1.5001–2 Examples of procurement contracts.
44–1.5002 Assistance.
44–1.5002–1 Grants.
44–1.5002–2 Cooperative agreements.
44–1.5002–3 Examples of involvement that is not substantial.
44–1.5002–4 Examples of substantial involvement.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44–1.000 Scope of part.

This part sets forth policies and procedures concerning: The Federal Emergency Management Agency Procurement Regulation System; definition of terms used throughout this chapter; general policies of procurement; small business concerns; labor surplus area concerns; publicizing procurement actions; and the use of contracts versus assistance documents.

Subpart 1.0—Regulation System

§ 44–1.001 Scope of subpart.

This subpart sets forth introductory information pertaining to the Federal Emergency Management Agency Procurement Regulation System; its purpose, authority, applicability, issuance, arrangement, implementation, supplementation and deviation procedure.

§ 44–1.002 Purpose.

This subpart establishes the Federal Emergency Management Agency Procurement Regulations (FEMAPR) for the codification and publication of uniform policies and procedures applicable to the Federal Emergency Management Agency (FEMA) in the procurement of personal property and nonpersonal services (including construction).

§ 44–1.003 Authority.

41 CFR 1–1.008 requires that as portions of Federal Procurement Regulation (FPR) material are prescribed, agencies shall publish in the **Federal Register** implementing regulations deemed necessary for business concerns, and others properly interested, to understand basic and significant agency procurement policies and procedures which implement, supplement, and deviate from the FPR. In compliance with this requirement, the FEMAPR are herein prescribed.

§ 44–1.004 Applicability.

The FEMAPR apply to all procurements within FEMA but do not apply to the placement or administration of cooperative agreements or grants.

§ 44–1.004–50 Relationship to the FPR.

Material published in the FEMAPR will not repeat, paraphrase or otherwise restate material in the FPR except to the extent necessary to implement, supplement or deviate therefrom.

§ 44–1.005 Exclusions.

Certain FEMA policies and procedures which come within the scope of the FEMAPR nevertheless may be excluded from the FEMAPR. These exclusions include the following categories:

(a) Policy or procedure for subject matter which bears a security classification.

(b) Policy or procedure which is expected to be effective for a period of six months or less.

(c) Policy or procedure which is being instituted on an experimental basis for a reasonable period.

(d) Policy or procedure of an internal nature which shall be issued as either a FEMA Handbook or Standard Operating Procedure or a revision to either of the above.

§ 44–1.006 Issuance.

§ 44–1.006–1 Code arrangement.

The FEMAPR are issued in the Code of Federal Regulations as Chapter 44 of Title 41, Public Contracts and Property Management.

§ 44–1.006–2 Publication.

The FEMAPR, as deemed necessary by the Director, Office of Finance and Administration, for information to the general public, are published initially in the daily issue of the **Federal Register** and in final cumulated form in title 41 of the Code of Federal Regulations. The above regulations are printed in separate loose-leaf volume form for distribution to appropriate FEMA organizational elements.

§ 44–1.006–3 Copies.

Copies of the FEMAPR in **Federal Register** and Code of Federal Regulations form may be purchased at nominal cost from the Superintendent of Documents, Government Printing Office, Washington, DC 20402. Upon request, copies of the FEMAPR loose-leaf volume and amendments and additions thereto will be distributed to agency procuring offices and other appropriate agency organizational units by the Policy and Support Branch Acquisition Management Division.

§ 44–1.006–4 Coordination.

In the development of FEMAPR issuances, the views of interested agency procuring offices, and, where appropriate and feasible, the views of interested business and professional organizations, will be considered.

§ 44–1.007 Arrangement.

§ 44–1.007–1 General plan.

The general plan, numbering system, and nomenclature used in the FEMAPR conform with those of the Federal Procurement Regulation (FPR) and **Federal Register** Standards approval for the FPR.

§ 44–1.007–2 Numbering and titling.

(a) Where the FEMAPR implements or deviates from a part, subpart, section or subsection of the FPR, the FEMAPR part, subpart, section or subsection will be numbered and titled to correspond to the part, subpart, section or subsection of the FPR.

(b) Where the subject matter contained in a part, subpart, section or subsection of the FPR requires no further implementation, the FEMAPR will contain no corresponding part, subpart, section or subsection number and the subject matter as published in the FPR governs.

(c) Material published in the FEMAPR which supplements the FPR will be assigned numbers from the number 50 onward to denote the new part, subpart, section or subsection being added. For example, § 44–50.100 (new part), § 44–1.5000 (new subpart), § 44–1.150 (new section), § 44–1.102–50 (new subsection).

§ 44–1.007–3 Citation.

FEMAPR will be cited in accordance with **Federal Register** Standards approved for the FPR. Thus this section, when referred to in divisions of the FEMAPR, should be cited as "§ 44–1.007–3" of this chapter. When this section is referred to formally in official documents, such as legal briefs, it should be cited as "41 CFR 44–1.007–3". Any section of the FEMAPR may be informally identified as "FEMAPR" followed by the section number, such as FEMAPR 44–1.007–3.

§ 44-1.009 Deviation.

§ 44-1.009-1 Description.

As used in the FEMAPR, the term "deviation" includes any of the actions set forth in 41 CFR 1-1.009-1 for either the FEMAPR or the FPR.

§ 44-1.009-2 Procedure.

In the interest of establishing and maintaining uniformity to the greatest extent feasible, deviations from the FPR and the FEMAPR shall be kept to a minimum and controlled as follows:

(a) Deviations in both individual cases and classes of cases must be authorized in advance by the Director, Acquisition Management Division. Requests for such authorization shall:

(1) Cite the specific parts of the FPR or FEMAPR from which it is desired to deviate.

(2) Provide a full description of the deviation.

(3) Indicate the circumstances which will require use of the deviation.

(4) Give detailed reasons supporting the actions requested; and

(5) Give reasons why the action is in the best interest of the Government.

(b) Where the deviation applies to a class of cases, review and approval shall be accomplished in accordance with 41 CFR 1-1.009-2(c) for deviations to either the FPR or the FEMAPR.

(c) The contract file(s) of the requesting office shall include a copy of the request and the approval. Class deviations will be issued as a part of the FEMAPR, if they are of a continuing nature and publication is deemed appropriate by the Director, Office of Finance and Administration.

Subpart 1.2—Definition of Terms

§ 44-1.201 Definitions.

For the purposes of the FEMAPR, the following terms have the meaning set forth in this subpart unless otherwise indicated.

§ 44-1.202 Agency.

"Agency" means the Federal Emergency Management Agency or as it is referred to throughout the FEMAPR, "FEMA".

§ 44-1.204 Director.

"Director" means the Director of the Federal Emergency Management Agency. In the FPR, the term "Secretary", where it pertains to a procuring agency, shall be construed to mean "Director".

§ 44-1.205 Procuring office.

"Procuring offices" means those offices which have delegated or redelegated authority to purchase or contract for supplies, services and/or construction.

§ 44-1.206 Head of the procuring activity.

"Head of the Procuring Activity" means the Director, Acquisition Management Division.

§ 44-1.250 Contractor.

"Contractor" means any person, firm, association, or corporation entering into a contract with the Government.

§ 44-1.251 Subcontractor.

"Subcontractor" means any person, firm, association or corporation entering into a subcontract with a contractor or higher-tier subcontractor.

§ 44-1.252 Supplies and property.

"Supplies and property" means materials and goods to be delivered to the Agency under contracts or purchase orders.

§ 44-1.253 Personal services.

"Personal services" means those services rendered by an officially appointed or employed individual engaged in the performance of authorized Federal functions who is compensated on either a time or contract basis and is under the direct supervision of a Federal officer thereby establishing an employer-employee relationship.

§ 44-1.254 Nonpersonal services.

"Nonpersonal services" means those services rendered by non-Government firms, institutions or persons through contract or agreement with FEMA wherein no employer-employee relationship exists.

§ 44-1.255 Program office.

"Program office" means any of various offices within the Agency which generate requests for procurement action.

§ 44-1.256 Project officer.

"Project officer" means the representative of a program office cognizant over the technical aspects of a given procurement action.

§ 44-1.257 Interagency agreement.

"Interagency agreement" means an agreement between two or more agencies, bureaus, or departments of the Federal Government by which supplies, services or property are provided to, or obtained from, one or more agencies, bureaus or departments of the Federal Government. Funds are transferred between the parties as consideration for the supplies, services or property.

§ 44-1.258 Memorandum of understanding.

"Memorandum of Understanding" means an agreement between two or more agencies, bureaus or departments of the Federal Government. Funds are not transferred between parties in a "Memorandum of Understanding."

Subpart 1.3—General Policies

§ 44-1.302 Procurement sources.

§ 44-1.302-1 General.

Supplies and services may be obtained from the following sources:

(a) *Government Program Sources.* Procuring offices shall endeavor to obtain required supplies or services from the following sources prior to initiating purchases from other sources. These sources shall be utilized to the maximum extent practicable in accordance with applicable laws and regulations and shall be solicited in the order in which they appear below:

(1) Agency inventories.

(2) Excess and surplus stocks in the possession of other Government agency.

(3) Federal Prison Industries, Inc.

(4) Committee for Purchase from the Blind and other Severely Handicapped.

(5) GSA Stock Program.

(6) Mandatory Federal Supply Schedule.

(7) Optional use Federal Supply Schedule.

(b) *Sources outside the Government.* If the required supplies and/or services cannot be obtained from any of the sources listed in paragraph (a) of this section, procuring offices shall endeavor to obtain them from commercial or other non-Government sources (including State and local Governments) to the maximum extent practicable.

(c) *Other Federal Agencies.* If supplies and/or services are available from another Federal agency, and the circumstances of the requirement meet the criteria set forth in OMB Circular A-76, procuring offices may obtain the supplies or services from that Federal agency.

§ 44-1.302-3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.

When a requisitioning office becomes aware that a suggested procurement source is either a Government employee, or a business or organization substantially owned by a Government employee, or the spouse or immediate family of a Government employee, the appropriate procurement office shall be immediately notified and shall seek alternative sources. If no alternative sources can be located, the

requisitioning office shall prepare a written justification to clearly support a Contracting Officer decision to procure from the Government employee source and to provide for actions where possible, to prevent future related procurements from employee sources. Approval shall be obtained from the Head of the Program Office and the Director, Office of Finance and Administration prior to any procurement award to a Government employee source.

§ 44-1.305 Specifications.

§ 44-1.305-6 Military and departmental specifications.

If no Federal Specification is available, Interim Federal, Military and Departmental Specification shall be considered, in the order of precedence indicated herein, prior to using or developing other specifications.

§ 44-1.317 Noncollusive bids and proposals.

The authority to make the determination described in paragraph (d) of the certification set forth in 41 CFR 1-1.317(a) shall vest in the Head of the Procuring activity without authority to redelegate.

Subpart 1.4—Procurement Responsibility and Authority

§ 44-1.400 Scope of subpart.

This subpart deals with the placement of procurement authority and responsibility within the Agency, the selection and designation of Contracting Officers, and the authority of procuring offices.

§ 44-1.401 Responsibility of the head of the procuring activity.

The Head of the Procuring Activity shall be responsible for the establishment of policy throughout the Agency, monitor in the overall effectiveness and efficiency of the Agency's procuring offices, the establishment of adequate controls to assure compliance with applicable laws, regulations and procedures, and shall be responsible for delegating or redelegating Contracting Officer authority, which has been delegated the Head of the Procuring Activity.

§ 44-1.404 Selection, designation and termination of designation of contracting officers.

§ 44-1.404-1 Selection.

In selecting Contracting Officers, the appointing authorities shall consider experience, training, education, business acumen, judgment, character, reputation and ethics. In the areas of experience, training and education the following shall be required unless contracting authority is limited to simplified purchase procedures. Waiver of any of the criteria set out below shall be in writing with specific justification therefor:

(a) Experience of an individual Contracting Officer or appointment of an individual to a position having contracting officer authority shall consist of a minimum of two years experience performing contracting, procurement or purchasing operations in a Government or commercial procurement office. Additionally where appointment of a Contracting Officer involves a specialized procurement field, experience in the field shall be considered as a criterion for the appointment.

(b) Educational requirements of an individual Contracting Officer or appointment of an individual to a position having contracting officer authority shall require as a minimum the equivalent of a bachelor's degree from an accredited college or institution with major studies in business administration, law, accounting or related fields. This educational requirement may be waived by the appointing official when it is determined that a potential appointee is otherwise qualified by virtue of extensive contract-related experience, training, business acumen, judgment, character, reputation and ethics.

(c) Training requirements of an individual Contracting Officer or appointment of an individual to a position having contracting authority as a minimum shall require that the individual has successfully completed training courses in Government basic procurement, of not less than 80 class hours, and Government contract administration, not less than 80 class hours. Incumbents not meeting the special training requirements shall be given 24 months to meet the minimum qualification standards.

§ 44-1.404-2 Designation.

Except for disaster-related activities and unusual circumstances as determined by the Head of the Procuring Activity, it is the policy of the Agency to delegate Contracting Officer authority to individuals rather than to positions. Except in those instances where the redelegation of authority specifically includes the authority for further redelegation to subordinate no other delegations or redelegations may be made. Delegations of Contracting Officer authority shall include clear statement of such authority, its responsibilities and limitations.

Subpart 1.6—Debarred, Suspended, and Ineligible Bidders

§ 44-1.600 Scope of subpart.

This subpart prescribes the FEMA policy and procedures for establishment, use, maintenance and distribution of a debarred, suspended, and ineligible bidders list for debarring or suspending bidders for cause.

§ 44-1.602 Establishment, maintenance and distribution of a list of concerns or individuals debarred, suspended, or declared ineligible.

(a) The Director, Acquisition Management Division, is responsible for establishment and maintenance of a master list or file of firms and individuals who are administratively or legally debarred or suspended from FEMA contracting and subcontracting and from whom bids and proposals will not be solicited as provided in 41 CFR 1-1.603. This list will be known as the FEMA Debarred, Suspended and Ineligible Bidders List.

(b) The list shall as a minimum contain that information set forth in 41 CFR 1-1.602 (b).

(c) The Director, Acquisition Management Division, will effect distribution of the list to authorized personnel. The lists shall not be disclosed to the public.

§ 44-1.602-1 Basis for entry on the debarred, suspended, and ineligible bidders list.

(a) The list shall be comprised of those firms debarred, suspended or declared ineligible in accordance with 41 CFR 1-1.602-1 (a), (b), (c), and (e).

(b) The list shall also be comprised of those firms which the Director, Office of Finance and Administration, declares to be debarred, suspended or ineligible in accordance with 41 CFR 1-1.602-1 (d), (f), and (g).

§ 44-1.603 Treatment to be accorded firms and individuals in debarred, suspended or ineligible status.

The Director, Office of Finance and Administration, shall make the determinations required by 41 CFR 1-1.603 (a).

§ 44-1.604 Causes and conditions applicable to determination of debarment.

Determination to debar or take other action concerning a firm or individual for a cause listed in 41 CFR 1-1.604 shall be made by the Director, Office of Finance and Administration. Whenever cause for debarment becomes known to any Contracting Officer, the matter shall be submitted, with recommendations of the Director, Acquisition Management Division, to the Director, Office of

Finance and Administration for appropriate action. The documented file of the case will be included in the submission.

§ 44-1.604-1 Procedural requirements relating to the imposition of debarment.

(a) Hearings requested in connection with debarment proceedings shall be conducted before the Director, Office of Finance and Administration, or his designee. An opportunity shall be afforded to the firm or individual to appear with witnesses and counsel, to present facts or circumstances showing cause why such firm or individual should not be debarred. If the firm or individual elects not to appear, or if the firm or individual does not respond within 30 days from receipt of the written notice, the reviewing authority will make the decision based on the facts on record and such additional evidence as may be furnished by the parties involved. After consideration of the facts, the reviewing authority shall notify the firm or individual of the final decision.

(b) Appeals may be taken within 30 days after receipt by the firm or individual of a decision to debar. Appeals shall be filed with Director, FEMA, who shall make a decision based on the record. The Director's decision shall be final.

§ 44-1.605 Suspension of bidders.

§ 44-1.605-1 Causes and conditions under which FEMA may suspend contractors.

Any Contracting Officer may recommend suspension of bidders for the causes and conditions set forth in 41 CFR 1-1.605-1. These recommendations shall be accompanied by the documented file in the case and be submitted through the Director, Acquisition Management Division, to the Director, Office of Finance and Administration. The Director, Office of Finance and Administration, shall issue the Notice of Suspension required by 41 CFR 1-1.605-2.

§ 44-1.606 Agency procedures.

The Director, Acquisition Management Division, is responsible for complying with the provisions of 41 CFR 1-1.606.

Subpart 1.7—Small Business Concerns

§ 44-1.700 General.

This subpart implements and supplements general policies and procedures set forth in 41 CFR Subpart 1-1.7.

§ 44-1.704 FEMA direction and operation.

FEMA shall implement the policies and procedures set forth in 41 CFR 1-1.7 through its small business advisor and its small business specialists.

§ 44-1.704-1 Small business advisor.

The Director, Acquisition Management Division, is hereby designated as FEMA's small business advisor for all procurement matters. The small business advisor is responsible for the establishment, implementation and execution of the small business procurement program. He is the central point of contact for inquiries concerning the program from industry, the Small Business Administration, the Congress, the Office of the Director and others. His duties include developing a plan of operation that will insure that an equitable share of contracts will be awarded to small businesses by the Agency. He will be assisted on a daily basis by the small business specialists.

§ 44-1.704-2 Small business specialists.

The small business advisor shall designate, by name and in writing, a small business specialist in each procuring office of FEMA, as appropriate, who shall be responsible for maintaining the program in that procuring office in accordance with the requirements of the FPR, the FEMAPR, and any further directives from the small business advisor. The small business specialist, for the Division of Acquistion Management at FEMA Headquarters, in addition to the above duties, shall act as coordinator for the small business activities in the other procuring offices and provide liaison between the other small business specialists and the small business advisor.

§ 44-1.705 Cooperation with the Small Business Administration.

§ 44-1.705-3 Screening of procurements.

FEMA has no SBA representative assigned to it on a full or part-time basis except to the extent that a representative of SBA regularly monitors the small business program within the Agency. Therefore, for all practical purposes, the small business specialists perform the duties of on-site SBA representatives. Accordingly, all proposed procurements estimated to exceed $10,000 will be reviewed by the small business specialists to identify those procurements which should be set aside in whole or in part for small business, unless the Head of the Procuring Activity determines in accordance with 41 CFR 1-1.705-3(a) that such review would unduly delay the procurement process. The small business specialist initiates recommendations to the Contracting Officer for small business set-asides for those individual procurements or classes of procurements, or portions thereof.

§ 44-1.706 Procurement set-asides for small business.

§ 44-1.706-2 Review of set-aside recommendatons initiated by small business specialist(s).

When the small business specialist recommends that all, or a portion, of an individual procurement or class of procurements be set aside for small business, the Contracting Officer shall promptly either (a) concur in the recommendation or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the Contracting Officer disapproves the recommendation of a small business specialist, the small business specialist may appeal to the Head of the Procuring Activity whose decision shall be final.

§ 44-1.706-3 Withdrawal or modification of set-asides.

A withdrawal or modification of an individual or class set aside which was originally established upon the recommendation of the small business specialist may be proposed by the Contracting Officer by giving notice, containing the reason for the proposed withdrawal or modification, to the small business specialist. If the small business specialist does not agree to a withdrawal or modification, the Contracting Officer may appeal to the Head of the Procuring Activity whose decision shall be final.

§ 44-1.706-5 Small business class set-asides.

(a) A class set-aside is hereby made for each proposed procurement for construction which is not expected to exceed $1,000,000 in amount. Accordingly, Contracting Officers shall set aside for small business each such proposed procurement. If a Contracting Officer determines that any individual procurement falling within the class set-aside requirements of this section is unsuitable for such a set-aside in part or in total, the set-aside may be withdrawn or modified in accordance with FEMAPR 44-1.706-3. Proposed procurements for construction which exceed an estimate of $1,000,000 shall be considered for set-aside on a case-by-case basis.

(b) A class set-aside is hereby made for each proposed procurement which is not expected to exceed $10,000. A written determination must be made by the Contracting Officer for each such

procurement not awarded to a small business detailing the reasons therefor.

§ 44-1.706-50 Review of class set-aside programs.

Each procuring office shall forward a semi-annual report on class set-aside withdrawals to the Director, Acquisition Management Division. The Director, Acquisition Management Division, acting as the small business advisor, shall direct actions to be taken to improve small business participation under the class set-asides in FEMAPR 44-1.706-5.

§ 44-1.713 FEMA contracts with the Small Business Administration.

It is the policy of FEMA to increase small business participation in procurement programs by awarding procurement contracts, whenever feasible to the SBA as authorized by Section 8(a) of the Small Business Act (15 USC 637(a)) and the FPR.

§ 44-1.750 FEMA responsibilities and functions pursuant to Section 8(a) of the Small Business Act.

(a) 8(a) program responsibilities. The FEMA Director for Small and Disadvantaged Business Utilization shall be responsible for the development and review of goals to be achieved under the 8(a) program and shall coordinate with the Director, the program offices, and the regional directors in establishing the level of FEMA's participation in the 8(a) program and the level of coordination with the small business advisor appropriate and necessary to definitize FEMA's plan for implementation of the 8(a) established goals.

In conjunction with this responsibility for establishing 8(a) goals, the Director for Small and Disadvantaged Business Utilization shall make available to the small business advisor 8(a) program guides for use by the small business specialists and Contracting Officers in making determinations on individual procurements that should be processed as an 8(a) contract to be awarded to SBA.

(b) 8(a) procurement responsibility. The procurement and contracting aspects of this program shall be the responsibility of the small business advisor who shall assure that 8(a) procurement requirements are implemented through the small business specialists in each of their appropriate areas of assignment.

(c) 8(a) functions of the small business specialist. The small business specialist(s) acting on behalf of the small business advisor, shall screen proposed solicitations to determine the feasibility of placement under the 8(a) program as part of the performance of those duties set forth under FEMAPR 44-1.704-1. The small business specialists, after consideration of the goals and guidance established pursuant to paragraph (a) of this section, shall make recommendations for 8(a) procurement to the Contracting Officer, who may, in his discretion, contract with the Small Business Administration in accordance with 41 CFR 1-1.705-7 and 1-1.713.

(d) 8(a) reporting requirements. The small business advisor shall report to the Director for Small and Disadvantaged Business Utilization on a quarterly basis covering the activities of the 8(a) program which report shall include the following:

(1) A narrative statement regarding the operation of the program during the three month period; and

(2) The number and dollar amount of awards made to small business under the 8(a) program.

Subpart 1.8—Labor Surplus Area Concerns

§ 44-1.800 Scope of subpart.

This subpart sets forth policies and procedures governing aid to sections classified as having concentrated unemployment or underemployment and areas of persistent or substantial labor surplus hereinafter referred to as labor surplus areas.

§ 44-1.803 FEMA direction and operation.

FEMA shall implement the policies and procedures set forth in 41 CFR 1-1.8 through its labor surplus area advisor and its labor surplus area specialists.

§ 44-1.803-1 Labor surplus area advisor.

The Director, Acquisition Management Division, is hereby designated as FEMA's labor surplus area advisor for all procurement matters. The labor surplus area advisor is responsible for the establishment, implementation and execution of the labor surplus area program within FEMA. He is the point of contact for inquiries concerning the program from industry, the Departments of Labor and Commerce, the Small Business Administration, the Congress, the Office of the Director and others. His duties include developing a plan of operation to increase the share of contracts awarded to labor surplus area concerns by FEMA. He will be assisted on a daily basis by the labor surplus area specialists.

§ 44-1.803-2 Labor surplus area specialists.

(a) The labor surplus area advisor shall designate, by name and in writing, a labor surplus area specialist in each procuring office of FEMA who shall be responsible for maintaining the program in those procuring offices in accordance with the requirements of the FPR, the FEMAPR and any further directives from the labor surplus area advisor.

(b) The labor surplus area specialist for the Acquisition Management Division at FEMA headquarters, in addition to the above, shall also act as coordinator for the labor surplus area activities in the other procuring offices and provide liaison between the other labor surplus area specialists and the labor surplus area advisor.

§ 44-1.803-3 Screening of procurements.

All proposed procurements estimated to exceed $10,000 shall be reviewed by the labor surplus area specialist to identify those procurements which should be set aside in whole or in part for labor surplus area concerns in accordance with 41 CFR 1-1.804-1 and to identify possible subcontracting opportunities for labor surplus area concerns. The labor surplus area specialist shall initiate recommendations to the Contracting Officer based upon these reviews for labor surplus area set-asides for those individual procurements or classes of procurements or portions thereof identified.

§ 44-1.803-4 Review of set-aside recommendations initiated by labor surplus area specialists.

When the labor surplus area specialist recommends that all, or a portion, of an individual procurement or class of procurements be set aside for labor surplus area concerns, the Contracting Officer shall promptly either (a) concur in the recommendation or (b) disapprove the recommendation, stating in writing his reasons for disapproval. If the Contracting Officer disapproves the recommendation, the labor surplus area specialist may appeal to the Head of the Procuring Activity whose decision shall be final.

§ 44-1.804 Partial set-asides for labor surplus area concerns.

§ 44-1.804-4 Withdrawal of set-asides.

A withdrawal of an individual or class set-aside which was originally established upon the recommendation of the labor surplus area specialist may be proposed by the Contracting Officer by giving written notice, containing the reason for the proposed withdrawal to the labor surplus area specialist. If the labor surplus area specialist does not agree to a withdrawal, the Contracting Officer may appeal to the Head of the

Procuring Activity whose decision shall be final.

§ 44-1.804-50 Modifications of set-asides.

Modifications of set-asides shall be handled in the same manner as withdrawals of set-asides.

Subpart 1.10—Publicizing Procurement Actions

§ 44-1.1003-2 General requirements.

(a) Except in the instances described in 41 CFR 1-1.1003-2(a) (1) through (10) every proposed modification to, or exercise of an option on existing contracts, when new funds are obligated for additional supplies and services which may result in an award of $5,000 or more, shall be published promptly in the Commerce Business Daily.

(b) Synopses prepared in accordance with paragraph (a) above on procurements negotiated on a noncompetive basis, shall indicate that the procurement is being synopsized to show that the agency believes only one source to exist. Descriptions of noncompetitive procurements contained in such synopses shall be in such detail that a firm can clearly understand the requirement and thus decide on the basis of adequate information whether it has the ability to compete in performing the work.

§ 44-1.1003-4 Synopsis of subcontract opportunities.

In addition to the requirements of 41 CFR 1-1.1003-4, the Contracting Officer shall, unless not in the Government's best interest, make the source list on a solicitation available to those firms requesting such list for the purpose of seeking subcontracting opportunities on procurements exceeding $10,000.

Subpart 1.13—Small Business Concerns Owned and Controlled by One or More Socially and Economically Disadvantaged Individuals

§ 44-1.1300 Scope of subpart.

This subpart contains policies and procedures applicable to the participation in FEMA procurement of small business concerns owned and controlled by one or more socially and economically disadvantaged individuals.

§ 44-1.1302 Policy.

It is the policy of FEMA to foster and promote the participation of small business concerns owned and controlled by one or more socially and economically disadvantaged individuals in the Agency's procurement program and to offer guidance to such firms to the maximum extent practicable in order to enhance their ability to compete for the placement of FEMA procurement contracts.

§ 44-1.1303 Solicitation representation.

As with procurements over $10,000, it is desirable that a representation as a small business concern owned and controlled by one or more socially economically disadvantaged individuals be obtained from all bidders, offerors, and contractors for procurement under $10,000. Accordingly, procuring offices shall request, whether in a solicitation or otherwise, that all bidders, offerors and contractors, complete and return on a voluntary basis, the certificate set forth in 41 CFR 1-1.1303, indicating also the applicable solicitation number or purchase order number. Completion of the certificate shall not be regarded as a condition for award.

Subpart 1.50—Criteria for Use of Procurement Contracts Versus Assistance Instruments

§ 44-1.5000 Scope of subpart.

This subpart sets forth definitions for procurement contracts, grants and cooperative agreements and provides examples of each to allow for uniform selection of the proper instrument within FEMA.

§ 44-1.5001 Procurement Contracts.

§ 44-1.5001-1 Definition.

Procurement contracts are to be used whenever the principal purpose of the instrument is the acquisition by purchase, lease or barter of property or services for the direct benefit or use of the Federal Government.

§ 44-1.5001-2 Examples of procurement contracts.

Procurement contracts will normally be used when the principal purposes of the relationship is:

(a) Evaluation (including research of an evaluative character) of the performance of Government program, projects or grantee activity initiated by FEMA.

(b) Projects funded by administrative funds.

(c) Technical assistance rendered on behalf of the Government to any third party, including those receiving grants or cooperative agreements.

(d) Surveys, studies and research which provide specific information desired by the Government for its direct activities or for dissemination to the public.

(e) Consulting or professional services of all kinds if provided to the Government or, on behalf of the Government, to any third party.

(f) Planning for Government use.

(g) Conferences conducted in behalf of the Government.

(h) Production of publications or audiovisual materials required primarily for the conduct of the direct operations of the Government.

(i) Design or development of items for Government use or pursuant to agency definition or specifications.

(j) The generation of management information or other data for Government use.

§ 44-1.5002 Assistance.

Assistance may take the form of either grants or cooperative agreements and include:

(a) General financial assistance (stimulation or support) to eligible recipients under specific legislation authorizing such assistance.

(b) Financial assistance (stimulation or support) to a specific program activity eligible for such assistance under specific legislation authorizing such assistance.

§ 44-1.5002-1 Grants.

Grants are to be used whenever the principal purpose of the relationship is the transfer of money, property, services or anything of value to a recipient to accomplish a public purpose of support or stimulation authorized by Federal statute and substantial involvement is not anticipated.

§ 44-1.5002-2 Cooperative agreements.

Cooperative agreements are to be used whenever the principal purpose of the relationship is the transfer of money, property, service or anything of value to recipients to accomplish a public purpose of support or stimulation authorized by Federal statute and substantial involvement is anticipated.

§ 44-1.5002-3 Examples of involvement that is not substantial.

Involvement is not substantial and therefore a grant is the proper instrument if the following types of involvement are planned:

(a) Approval of recipient plans prior to award.

(b) Normal Federal stewardship such as site visits, performance reporting, financial reporting and audits to insure that objectives, terms and conditions of the grants are met.

(c) Unanticipated involvement to correct deficiencies in project or financial performance from the terms of the grants.

(d) General statutory requirements understood in advance of the award such as civil rights, environmental

protection and provision for the handicapped.

(e) Review of performance after completion.

(f) General administrative requirements, such as those included in OMB Circulars A-21, A-95, A-110 and A-102.

§ 44-1.5002-4 Examples of substantial involvement.

Involvement is substantial and a cooperative agreement is the proper instrument when the following types of involvement are planned.

(a) Agency review and approval of one stage before work can begin on a subsequent stage during the period covered by the cooperative agreement.

(b) Agency and recipient collaboration or joint participation in the performance of the assisted activities.

(c) Highly prescriptive agency requirements prior to award limiting recipient discretion with respect to scope of services offered, organizational structure, staffing, mode of operation, and other management processes, coupled with close agency monitoring or operational involvement during performance over and above the normal exercise of Federal stewardship responsibilities to ensure compliance with these requirements.

(d) General administrative requirements beyond those included in OMB Circulars A-102 and A-110.

PART 44-2—PROCUREMENT BY FORMAL ADVERTISING

Sec.

44-2.000 Scope of part.

Subpart 2.1—Use of Formal Advertising

44-2.106 Procurement management reviews.

Subpart 2.2—Solicitation of Bids

44-2.201 Preparation of invitation for bids.
44-2.202 Miscellaneous rules for solicitation of bids.
44-2.202-1 Bidding time.
44-2.202-2 Telegraphic bids.
44-2.202-3 Place and method of delivery of supplies.
44-2.202-4 Bid samples.
44-2.202-50 Extension of time for bid opening.
44-2.202-51 Pre-bid conferences.
44-2.202-52 Bid envelopes.
44-2.205 Bidders mailing lists.
44-2.205-1 Establishment of lists.
44-2.250 Small business concerns owned and controlled by one or more socially and economically disadvantaged individuals and labor surplus area concerns.

Subpart 2.3—Submission of Bids

44-2.301 Responsiveness of bids.
44-2.303 Late bids.
44-2.303-6 Notification to late bidders.
44-2.303-7 Disposition of late bids.

Subpart 2.4—Opening of Bids and Award of Contract

44-2.401 Receipt and safeguarding of bids.
44-2.402 Opening of bids.
44-2.402-50 Time of acceptance and withdrawal of bids.
44-2.406 Mistakes in bid.
44-2.406-3 Other mistakes disclosed before award.
44-2.407 Award.
44-2.407-8 Protests against award.

Subpart 2.5—Two-Step Formal Advertising

44-2.502 Conditions for use.

Authority: Sec: 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-2.000 Scope of part.

This part implements and supplements the basic requirements for procurement of personal property and non-personal services (including construction) by formal advertising, and establishes policies with respect to solicitation of bids, submission of bids, opening and evaluation of bids and the awarding of contracts as set forth in 41 CFR Part 1-2.

Subpart 2.1—Use of Formal Advertising

§ 44-2.106 Procurement management reviews.

The Policy and Support Branch of the Acquisition Management Division shall be responsible for meeting the requirements of 41 CFR 1-2.106.

Subpart 2.2—Solicitation of Bids

§ 44-2.201 Preparation of invitation for bids.

Forms used in the preparation of invitations for bids are prescribed in 41 CFR Subparts 1-16.1 and 1-16.4 and Part 16 of the FEMAPR.

§ 44-2.202 Miscellaneous rules for solicitation of bids.

§ 44-2.202-1 Bidding time.

In the procurement of supplies and services, the following shall be observed:

(a) Procurement action which does not provide for the minimum bidding time required by 41 CFR 1-2.202-1(c) shall be justified by the Contracting Officer prior to releasing the invitation for bids. This justification shall take the form of a finding of fact which establishes the Contracting Officer's basis for the exception to the minimum bidding time.

(b) The minimum bidding time stipulated in 41 CFR 1-2.202-1(c) shall not be construed as a maximum. Each prospective procurement shall be examined on its own merits to determine the bidding time that will facilitate competition on reasonable and equal terms. As a general rule, procurement of a less complicated nature for which no extensive bid preparation by the prospective bidder is required in development of his bid may contain a bidding time of 20 calendar days. Where the specification may require prospective bidders to develop drawings or samples, or to do extensive preparation in developing a meaningful bid, 30 calendar days or more of bidding time may be required.

§ 44-2.202-2 Telegraphic bids.

Telegraphic bids will be authorized only by the Contracting Officer who shall document the official procurement file as to the necessity of telegraphic bids. Conditions under which telegraphic bids may be authorized are set forth in 41 CFR 1-2.202-2. When telegraphic bids are authorized by the Contracting Officer, a clause shall be incorporated in the invitation for bids, authorizing such bids and providing instructions on their submission in accordance with 41 CFR 1-2.202-2(a).

§ 44-2.202-3 Place and method of delivery of supplies.

To the maximum extent practical, invitations for bids issued by FEMA shall stipulate "f.o.b. destination." Only where the Contracting Officer determines in writing that it is in the Government's best interest may he deviate from this policy.

§ 44-2.202-4 Bid samples.

Bid samples submitted by bidders as required by an invitation for bids or as unsolicited samples, if not returned in accordance with 41 CFR 1-2.202-4(h), shall be disposed of by the contracting officer who shall document the contract file as to the method of disposition.

§ 44-2.202-50 Extension of time for bid opening.

Whenever such action is determined by the Contracting Officer to be in the best interest of the Government, bid openings may be rescheduled for a later date by issuance and distribution of an amendment (See 41 CFR 1-2.207) to the invitation for bids. Notices of change in bid opening date shall specify the exact time and date for the new opening and will be issued by mail or telegram as soon as possible, but, in any event, prior to the time specified for the opening of bids.

§ 44-2.202-51 Pre-bid conferences.

Whenever a pre-bid conference is proposed for a formally advertised procurement the following will be applicable:

(a) *General.* One of the essential elements of formal advertising is that all bidders are afforded an equal opportunity to compete. For this reason, discussions with prospective bidders will only be conducted by or with the knowledge and approval of the Contracting Officer. It is incumbent upon the Contracting Officer to avail all prospective bidders of the same information so as not to give one an advantage over the others. The need for pre-bid conferences in advertised procurements should be infrequent and such conferences shall not be used as a substitute for formally amending defective or ambiguous solitations or to disseminate additional specification requirements. A pre-bid conference is only authorized when it is deemed by the Contracting Officer to be in the best interest of the Government and approved by the Head of the Procuring Activity or when written internal program policy requires it under certain specified circumstances.

(b). *Purpose.* A pre-bid conference is held to accomplish these primary objectives:

(1) To provide discussion of unusual aspects of complex procurements.

(2) To impart information that removes areas of performance uncertainties which, unless removed, result in higher price to the Government, i.e., inclusion in the bid of an amount for the uncertainty or contingency.

(3) To avoid post-award performance problems which firms could have been made aware of at the time of bid preparation.

(c) *Format.* The typical format of a pre-bid conference is a formal presentation by the Contracting Officer or his representative followed by a question and answer period. All prospective bidders and their subcontractors shall be invited to the meeting in a manner deemed appropriate by the Contracting Officer. When held, a pre-bid conference shall be scheduled sufficiently in advance of the date set for bid opening to permit prospective bidders to use the information. A written record of the pre-bid conference shall be made and maintained in the procurement file as the office record of what was presented at the conference.

(d) *Conclusion.* As a result of the pre-bid conference, it may become necessary to change or substantially clarify the invitation for bid. This action shall be transmitted to all those receiving invitation for bids in the form of an official amendment to the solicitation, taking into consideration any extension of the closing date for the receipt of bids.

§ 44-2.202-52 Bid envelopes.

Mailing labels, or envelopes, bearing "Postage and Fees Paid" indicia shall not be distributed with the invitation for bids or otherwise supplied to prospective bidders. To provide for ready identification and proper handling of bids, the Optional Form 17, "Sealed Bid Label" may be furnished with each bid set to inform the bidder as to what will be required on the bid envelope. 41 CFR 1-16.902-OF17 illustrates the referenced form and copies of same can be obtained from the General Services Administration.

§ 44-2.205 Bidders mailing lists.

§ 44-2.205-1 Establishment of lists.

New prospective suppliers that have been added to the bidders mailing list shall be notified by the procuring office by a letter so indicating.

§ 44-2.250 Small business concerns owned and controlled by one or more socially and economally disadvantaged individuals and labor surplus area concerns.

It is the policy of FEMA to send pre-invitation notices to all small business concerns owned and controlled by one or more socially and economically disadvantaged individuals and labor surplus area concerns that are on the bidder's mailing list for each procurement expected to result in an award in excess of $10,000, subject to the provisions of § 44-1.1302.

Subpart 2.3—Submission of Bids

§ 44-2.301 Responsiveness of bids.

Any bid which is not signed by the bidder or his authorized representative shall be disregarded, except when it is accompanied by other evidence which demonstrates the bidder's intention to be bound by the unsigned bid document. An example of such evidence is a bid guarantee or a letter (which does not qualify or otherwise render the bid non-responsive) signed by the bidder referring to, and clearly identifying the bid itself. In such a case, the Contracting Officer may waive the deficiency as a minor informality or irregularity (see 41 CFR 1-2.405) and shall document the file to so indicate.

§ 44-2.303 Late bids.

§ 44-2.303-6 Notification to late bidders.

In setting the date to be inserted in the notice to late bidders contained in 41 CFR 1-2.303-6, consideration should be given to the time required by the bidder to develop and prepare the required evidence in relation to the acceptance period specified by the otherwise apparent low bidder, avoidance of undue delay in the procurement cycle, and other pertinent factors. As a general rule, the bidder should be allowed a minimum of three (3) working days in addition to a time allowance for transmitting the notice to, and receipt of the evidence by, the Contracting Officer. The bidder shall be notified immediately in writing if his bid cannot be considered for award because of lateness.

§ 44-2.303-7 Disposition of late bids.

The return of a late bid which cannot be considered for award shall be accompanied by a statement from the Contracting Officer that the bid was not considered because of its late receipt. If the late bid had to be opened for identification purposes or was opened by mistake, this fact shall be included in the statement from the Contracting Officer accompanying the returned bid. In all cases where a late bid is not considered and returned to the bidder, the file shall be documented with all information relating to the determination of late receipt which shall include a copy of the late bid envelope.

Subpart 2.4—Opening of Bids and Award of Contract

§ 44-2.401 Receipt and safeguarding of bids.

(a) Envelopes or other outer coverings containing identified bids shall be stamped or otherwise marked to show the office of receipt, the time of day received and the date. The individual receiving the bids shall then place his initials under the above marking.

(b) The Contracting Officer shall, in addition to the requirements of 41 CFR 1-2.401(b), retain in the file a copy of the envelope, wrapper or other container bearing the required documentation of a bid which was opened by mistake or for purposes of identification.

§ 44-2.402 Opening of bids.

(a) The Contracting Officer, or his duly authorized representative, shall be designated as the bid opening officer. At the bid opening, the relative merits of any bids shall not be discussed by any person from the procuring office. No statement shall be made at the bid opening by any person from the procuring office regarding the award, the possibility of a readvertisement, mistakes in bids, the responsiveness of any bid or responsibility of any bidder, etc.

(b) Inquiries or protest received during the bid opening regarding award of the contract shall be referred to the Contracting Officer for resolution after the completion of the bid opening.

Bidders are cautioned that information obtained at the bid opening from persons other then the Contracting Officer may only be relied upon by the bidder at the bidder's own risk. After all bids have been opened, read aloud and recorded, the bid opening officer shall state that opening of bids has been completed.

§ 44-2.402-50 Timing of acceptance and withdrawal of bids.

Bidders may not withdraw their bids after bid opening unless the notice of withdrawal was mailed prior the time set for bid opening and handled in accordance with 41 CFR 1-2.305.

§ 44-2.406 Mistakes in bid.

§ 44-2.406-3 Other mistakes disclosed before award.

The Director, Acquisition Management Division, is delegated the authority to make the determinations required by 41 CFR 1-2.406-3 concerning mistakes in bid other than obvious clerical errors discovered prior to award. Each such determination shall be approved by the Office of General Counsel prior to notification of the bidder.

§ 44-2.407 Award.

§ 44-2.407-8 Protests against award.

(a) *General.* (1) Resolution of protests to the contracting activity shall be pursued initially by the Contracting Officer. If the protest cannot be resolved, or if the protest has been filed with GAO, the Contracting Officer shall forward a report to the HPA. The report shall consist of the documents set forth in 41 CFR 1-2.407-8(a)(2). The HPA shall either recommend a course of action to the Contracting Officer or forward the Contracting Officer's report to the Office of General Counsel. The Office of General Counsel is the FEMA liaison with GAO. All communication with GAO concerning a protest shall be coordinated through the HPA and the Office of General Counsel.

(2) A protestor shall be notified of the final decision of his protest to the Contracting Officer within thirty (30) working days after receipt of his protest. A formal report to GAO shall be submitted to GAO within twenty-five (25) working days after receipt of the request. In order to assure compliance with these dates, the contracting office shall submit his report to the HPA within ten (10) working days of receipt of the protest or request for comments from GAO. If the GAO has requested comments, the Contracting Officer's submission to the HPA shall include the names and addresses of interested parties along with copies of the report for GAO and each interested party.

(b) *Protests before award.* Where the Contracting Officer makes a determination to award a contract notwithstanding a protest, approval shall be obtained from the HPA prior to making the award. The Contracting Officer shall forward a written determination, made in accordance with 41 CFR 1-2.407-8(b)(4), to the HPA along with the request for approval to make award. The HPA shall notify the Office of General Counsel prior to authorizing award of a contract when the protest has been filed with GAO.

(c) *Protests after award.* In addition to the requirements of 41 CFR 1-2.407-8(a)(2), the Contracting Officer's report shall contain the following:

(1) Current status of the contract, indicating whether performance has commenced, shipment or delivery has been made or a stop work order has been issued, and

(2) Copies of any mutual agreement with the contractor, if applicable, to suspend performance.

(d) *Timeliness.* Protest filed with the Contracting Officer shall be filed to be received at the procuring office not later than five (5) working days after the basis for protest is known or reasonably should have been known, whichever is earlier.

(e) *Records.* The HPA shall maintain records relating to all protests received. The records shall contain adequate data to show the number and nature of formal protests received (whether filed directly with FEMA or with GAO), their disposition and the time for resolutions. These records will be reviewed annually in order to update protest procedures.

Subpart 2.5—Two-Step Formal Advertising

§ 44-2.502 Conditions for use.

Pursuant to 41 CFR 1-2.502, approval must be obtained from the Head of the Procuring Activity before the two-step formal advertising method of procurement may be used.

PART 44-3—PROCUREMENT BY NEGOTIATION

Sec.

44-3.000 Scope of part.

Subpart 3.1—Use of Negotiation

44-3.100 Scope of subpart.
44-3.101-50 Noncompetitive procurement.
44-3.101-51 Preference for local contractors in Presidentially declared major disasters or emergencies.
44-3.103 Dissemination of procurement information.
44-3.103-50 Preproposal conferences.
44-3.150 Treatment of proposal information.
44-3.150-1 General.
44-3.150-2 Disposition of unsuccessful proposals.
44-3.150-3 Use of successful proposals.

Subpart 3.4—Types of Contracts

44-3.400 Scope of subpart.
44-3.405-3 Cost-sharing contract.
44-3.408 Letter contract.

Subpart 3.7—Negotiated Overhead Rates

44-3.700 Scope of subpart.
44-3.702 General.
44-3.707 Overhead ceilings.

Subpart 3.8—Price Negotiation Policies and Techniques

44-3.800 Scope of subpart.
44-3.801-2 Responsibility for determination of final price.
44-3.802 Preparation for negotiation.
44-3.802-2 Alternate procedures for consideration of late proposals.
44-3.805 Selection of offerors for negotiation and award.
44-3.805-50 Source selection procedures.

Subpart 3.51—Protests Against Award

44-3.5101 Negotiated procurement protests.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-3.000 Scope of part.

This part prescribes policies and procedures which shall be observed by FEMA procuring offices in connection with procurement by negotiation.

Subpart 3.1—Use of Negotiation

§ 44-3.100 Scope of subpart.

This subpart sets forth policies and procedures concerning exceptions to normal negotiation procedures and the dissemination of procurement information.

§ 44-3.101-50 Noncompetitive procurement.

(a) *General.* FEMA procurement shall be accomplished on a competitive basis to the maximum extent practicable. Procurement without competition shall be limited to those circumstances in which only one firm, organization or individual can provide the required supplies or services.

(b) *Justification for noncompetitive procurement.* In order for procurement on a noncompetitive basis to be approved, the justification must demonstrate that one of the following criteria has been met:

(1) The recommended source possesses a unique characteristic or capability that serves to make that source the only one able to provide the required product or service and all other sources unable to provide the product or service.

(2) The proposed procurement is for replacement of components for

equipment specially designed by a manufacturer and available data is not adequate to assure that replacement parts or components, if provided by a source other than the manufacturer of the equipment, would be compatible with, or perform the same function as, the parts or components being replaced.

(c) *Exclusions.* The provisions of FEMAPR 44–3.101–50(a) do not apply to the following:

(1) Procurement of $500 or less.

(2) Procurement from or through other Government Agencies.

(3) Procurements of architect-engineer services.

(4) Procurements of utility services where the services are available from only one source.

(5) Procurements with the Small Business Administration.

(6) Purchases from mandatory Federal Supply Schedule contracts which list only one source.

(d) *Approvals.* Program offices are responsible for submitting to the procuring office a detailed recommendation of the factual circumstances justifying noncompetitive procurement. The Contracting Officer shall execute a written justification either approving or disapproving the non-competitive procurement. The justification shall state that the circumstances set forth in the justification do or do not meet the noncompetitive procurement criteria set forth in FEMAPR 3.101–50(b): It shall also set forth the reasons why these circumstances do or do not meet these criteria. The Contracting Officer shall then forward the justification, along with the contract file, to the following approval levels prior to issuance of a solicitation:

(1) Procurements over $500 but not over $10,000—Contracting Officer.

(2) Procurements over $10,000 but not over $100,000—level higher than the Contracting Officer.

(3) Procurements over $100,000 but not over $500,000—the Head of the Procuring Activity.

(4) Procurements over $500,000—the Director, Office of Finance and Administration.

§ 44–3.101–51 Preference for local contractors in Presidentially declared major disasters or emergencies.

(a) *Scope of subsection.* This subsection establishes policies relating to local contractor preference to receive procurement awards resulting from competitively negotiated solicitations under a Presidentially-declared major disaster or emergency operation.

(b) *Geographical coverage.* The geographic areas to which local contractor preference shall apply are those affected by the Presidentially-declared disaster and designated by the Associate Director for Disaster Response and Recovery in the **Federal Register.** Geographical areas shall be identified by county or other political subdivision.

(c) *Procurement for implementation of the procurement of supplies and services for disaster relief response.* Pursuant to the provisions of Pub. L. 93–288, the clause set forth below shall be included in each competitively negotiated solicitation for disaster relief response.

Provision for Competitively Negotiated Solicitations

In awarding any contract(s) pursuant to this solicitation, the Government shall give preference to local organizations, firms and individuals residing or doing business primarily in the geographic area identified as the disaster area by the Associate Director for Disaster Response and Recovery.

The Contracting Officer reserves the right to request offerors to furnish documentation to demonstrate eligibility for local contractor preference. To be eligible for local contractor preference, the offeror shall have been residing (in the case of individuals) or doing the major portion of its business (in the case of business entities) in the disaster area.

Offerors for which eligibility is established (local offerors) shall be permitted to reduce their proposed price to meet the lowest price received from an otherwise eligible non-local offeror, provided that the proposed price from the local offeror(s) does not exceed 130% of the price received from the non-local offeror. The lowest priced local offeror within 130% of the lowest non-local price shall be given the initial opportunity to meet the non-local price. If the local offeror meets the lowest non-local price and is determined to be responsible, award shall be made. If the non-local offer is not met, the next lowest local offeror within 130% shall be given an opportunity to meet the lowest non-local price. This process shall continue until award is made to a local offeror within the 130% requirement or the supply of such local offerors is exhausted and award made to the lowest non-local offerors.

(d) *Exception to use of local preference provisions.* If it is determined by the Contracting Officer to be in the best interest of the Government the clause set forth in Paragraph (c) need not be included in solicitations. Such determination shall be documented in the contract file with a findings and determination signed by the Contracting Officer and approved by the Head of the Procuring Activity.

(e) *Additional methods for encouraging local participation.* In the event the Contracting Officer makes the determination of paragraph (d) above, local participation may be encouraged by:

(1) Setting the procurement aside for labor surplus area if the disaster area has been established as a labor surplus area;

(2) Advertising only in the local disaster area; and/or

(3) Subdividing large requirements into several smaller requirements.

§ 44–3.103 Dissemination of procurement information.

(a) *Publicizing procurement actions.* The agency shall continually search for and develop information on sources (including small businesses owned and controlled by one or more socially or economically disadvantaged individuals) competent to provide supplies or services. Advance publicity, including use of the Commerce Business Daily to the fullest extent practicable, shall be given for this purpose. The search should include (a) a review of relevant data or brochures furnished by sources seeking to do business with the agency and (b) a cooperative effort by program personnel, small business specialists and Contracting Officers to obtain information and recommendations with respect to potential sources and to consider the desirability of seeking other sources by publication of proposed procurements, in addition to the synopsis requirements. Each procuring office shall use to the maximum extent practicable its bidders mailing list for soliciting competition.

(b) *Release of information during the solicitation phase.* No information shall be released during the solicitation phase of a procurement except as follows:

Each solicitation for a negotiated procurement shall specify an individual within the procuring office who shall be responsible for responding to inquiries concerning the solicitation and evaluation of proposals resulting from the solicitation. All questions concerning the solicitation, whether of a procedural or substantive nature, shall be directed to the above individual. All other personnel will avoid exchange of comments with all offerors or potential offerors. Answers to questions requiring clarification of the substantive portion of the solicitation shall be provided by amendment to the solicitation a copy of which shall be furnished to each recipient of the solicitation.

(c) *Release of information during the evaluation phase.* During the course of evaluating proposals, personnel involved in this activity shall not reveal any information concerning the evaluation of proposals to anyone who is not also participating in the same evaluation proceedings, except as may be required for internal clearances. However, the Contracting Officer, upon determination that a proposal is unacceptable, or not within the

competitive range, shall provide prompt notice of the fact to the offeror submitting the proposal. In addition to stating that the proposal has been determined to be unacceptable, or not within the competitive range, the notice to the offeror shall indicate, in general terms, the basis for such determination and shall advise the offeror that since further negotiation with him is not contemplated, a revision of his proposal will not be considered. Such notice need not be given if (a) in the judgment of the Contracting Officer, the disclosure will prejudice the Government's interest (the possibility of protest shall not be considered prejudicial), or if the proposed contract is to be awarded within a few days and notice pursuant to 41 CFR 1–3.103 would suffice. This notification procedure shall not apply to procurements negotiated pursuant to 41 USC 252(c) (4), (5) or (6); negotiated with a foreign supplier when only foreign sources of supplies or services have been solicited; or urgent procurement actions which the Contracting Officer determines in writing must be awarded without delay to protect the public interest. The Contracting Officer's determination shall be placed in the contract file.

(d) *Post-award release of procurement information.* Promptly after making award of any procurement in excess of $10,000, the Contracting Officer shall, if he has not done so pursuant to FEMAPR 44–3.103(c), give written notice to the unsuccessful offerors that their proposals were not accepted. The notice should name the successful contractor and state the amount of the award and the number of proposals received. Where additional information is requested by the offeror, it shall be provided as follows:

(1) It is the policy of FEMA to provide a debriefing to any unsuccessful offeror who makes a written request to the Contracting Officer within two (2) months after contract award.

(2) A debriefing is intended to:

(i) Tell an unsuccessful offeror which areas of his proposal were judged to be weak or deficient and whether the weaknesses or deficiencies were factors in his not having been selected.

(ii) Identify the factors which were the basis for selection of the successful contractor. If the quality of the successful offeror's proposal to satisfy the mission requirement was the basis, the unsuccessful offeror should be so informed and given a general comparison of significant areas, but not a point by point comparison of all the elements considered in the evaluation criteria.

(3) A debriefing should not reveal:

(i) Confidential business information, trade secrets, techniques, or processes of the other offerors; and

(ii) The relative merits or technical standing of the unsuccessful offerors or the scoring by the Source Evaluation Board or Technical Evaluation Panel.

(4) Any FEMA official who receives from an unsuccessful offeror a request, written or oral, for a debriefing shall immediately refer the request to the appropriate procuring office which shall make the necessary arrangements for the debriefing.

(5) It is essential that the debriefing be conducted in a scrupulously fair, objective and impartial manner, and that the information given be factual and consistent with the findings of the evaluation and the basis on which the source selection official made his decision.

(6) It is most important that all FEMA personnel engaged in the evaluation and selection process be aware of the foregoing policies and procedures. Detailed and complete records will be maintained by key technical and business participants in a manner which will facilitate either a written or oral debriefing of any unsuccessful offeror's proposal.

§ 44–3.103–50 Preproposal conferences.

In cases of complex procurement, preproposal conferences may be used to explain complicated specifications and requirements to prospective offerors so as to permit them to submit proposals without undue expenditure of effort, time and money. Attendance at the preproposal conference shall not be used as a method for prequalification of offerors. The preproposal conference may only be used when approved by the Head of the Procuring Activity. The preproposal conference shall be arranged and conducted by the Contracting Officer or his representative with participation by technical, legal and such other personnel as appropriate. All prospective offerors shall be furnished identical information in connection with the proposed procurement. Remarks and explanations at the conference shall not qualify the terms of the solicitation and specifications. All conferees shall be advised that unless the solicitation is amended in writing it will remain unchanged and that if an amendment is issued, normal procedures relating to the acknowledgement and receipt of solicitation amendments shall be applied. A complete record shall be made of the conference. The record shall be made available to those requesting it.

§ 44–3.150 Treatment of proposal information.

§ 44–3.150–1 General.

It is the general policy of FEMA to use information contained in proposals only for evaluation purposes except to the extent such information is generally available to the public, is already the property of the Government or the Government already has unrestricted use rights, or it is, or has been made available to the Government from other sources, including the offeror, without restriction.

§ 44–3.150–2 Disposition of unsuccessful proposals.

Unsuccessful proposals shall be disposed of as follows:

(a) All but one copy of each unsuccessful proposal shall be destroyed upon contract award. The one remaining copy of each unsuccessful proposal shall be retained in the official contract file for six (6) months at the end of which time it may be destroyed.

(b) Unsuccessful proposals shall not be used for purposes other than internal reference unless (1) written permission has been obtained from the offeror or (2) the proposal expressly states that unrestricted use of the proposal is given to the Government regardless of its success in the competition or (3) any of the conditions described in FEMAPR 44–3.150–1 exist.

§ 44–3.150–3 Use of successful proposals.

The Government shall normally be accorded unrestricted use of successful proposals. In the event that the successful offeror desires to place restrictions on the use of his proposal, the terms and extent of such restrictions may be set forth in the resulting contract. In any event the Freedom of Information Act will govern.

Subpart 3.4—Types of Contracts

§ 44–3.400 Scope of subpart.

This subpart sets forth policies and procedures concerning the use of cost-sharing contracts.

§ 44–3.405–3 Cost sharing contract.

(a) *Purpose.* This subsection sets forth basic guidelines governing cost-sharing on research contracts with non-Federal organizations.

(b) *Basic guidelines.* (1) Cost sharing with non-Federal organizations shall be encouraged in contracts for basic or applied research in which the parties have considerable mutual interest in the research.

(2) Contracting Officers shall assure themselves of the following in the determination of contract type.

(i) The research effort has more than minor relevance to the non-Federal activities of the performing organization and the research is not primarily a service to the government;

(ii) The performing organization has adequate non-Federal sources of funds from which to make a cost contribution;

(iii) The performing organization conducts production or other service activities, as opposed to being primarily engaged in research and development, and is in a favorable position to make a cost contribution;

(iv) The principle purpose of the contract is research as opposed to the production of, or design, testing or improving of products, materials, devices, systems or methods.

(v) Payment of the full cost of the project is not necessary in order to obtain the services of the particular organization.

(3) FEMA's Appropriation Act includes provisions requiring cost sharing by the contractor under research contracts resulting from unsolicited proposals. This requirement may only be wavied when the offeror certifies in writing to the Contracting Officer that it has no commercial, production, educational or service activities on which to use the results of the research and that it has no means of recovering any cost sharing on such projects. In situations such as the foregoing, the Contracting Officer may determine that there is no measurable gain to the performing organization and no mutuality of interest; therefore, it would not be equitable for the Government to require cost sharing. Such determinations shall be in writing and placed in the file.

(c) *Guidelines for determining the amount of cost sharing.* (1) For educational institutions and other not-for-profit or nonprofit organizations, cost sharing normally may vary from 1 percent to as much as 50 percent of the costs of the project. In some cases it may be appropriate for educational institutions to provide a higher degree of cost sharing, such as when the cost of the research consists primarily of the academic year salary of faculty members, or when the equipment acquired by the institution for the project will be of significant value to the institution in its educational activities.

(2) The amount of cost participation by commercial or industrial organizations may vary from as little as 1 percent or less of the total project cost to more than 50 percent of total project cost, depending upon the extent to which the research effort is likely to enhance the performing organization's capability, expertise or competitive position and the value of such enhancement to the performing organization. It should be recognized that those organizations which are predominately engaged in research and development and have little or no production or other service activities may not be in a favorable position to derive a monetary benefit from the research under Federal agreements.

(3) A fee or profit will usually not be paid to the performing organization if the organization is to contribute to the cost of the research effort, but the amount of cost sharing may be reduced to reflect the fact that the organization is foregoing its normal fee or profit on the research. However, if the research is expected to be of only minor value to the performing organization and if cost-sharing is not required by statute, it may be appropriate for the performer to make a contribution in the form of a reduced fee or profit, rather than sharing the costs of the project.

(4) Each cost-sharing contract negotiated by the agency shall contain the clause included in FEMAPR 44–7.500 2–9.

§ 44–3.408 Letter contract.

Prior to the award of a letter, contract the Contracting Officer shall make a determination that no other type of contract is suitable under the circumstances surrounding the procurement and shall support this determination by detailing the reasons why no other type of contract is suitable. The determination and supporting documentation shall then be submitted to, and must be approved by, the Head of the Procuring Activity before the letter contract may be awarded.

Subpart 3.7—Negotiated Overhead Rates

§ 44–3.700 Scope of subpart.

This subpart sets forth policies and procedures concerning negotiated overhead rates for use in cost-reimbursement type contracts.

§ 44–3.702 General.

(a) When a contractor performs work in the same period under several contracts for one or more procuring offices or agencies, it may be desirable and appropriate, when mutually agreed to by FEMA and the contractor, to negotiate uniform overhead rates for application to all such contracts in order to (1) effect uniformity of approach, (2) effect economy in administrative effort, and (3) promote timely settlement of reimbursement claims.

(b) When the Contracting officer determines that the above conditions exist, he shall include the negotiated ovrhead rate clause set forth in 41 CFR 1–3.704–1.

(c) If the prospective cost-reimbursement contract is the only contract to be performed by the contractor for the Government during a given period or if the Contracting Officer determines that it is not appropriate to include the clause specified in 41 CFR 1–3.704–1, determination of the reimbursable amount of the overhead under the contract shall be based upon final audit of the actual costs incurred during the period of performance and the clause set forth in FEMAPR 44–7.500 2–6 shall be included.

§ 44–3.707 Overhead ceiling.

When the Contracting Officer determines in accordance with 41 CFR 1–3.707 that it is appropriate to place an overhead ceiling in the contract, he shall include the clause set forth in FEMAPR 44–7.500 2–8.

Subpart 3.8—Price negotiation Policies and Techniques

§ 44–3.800 Scope of subpart.

This subpart sets forth policies and procedures concerning final price negotiation, consideration of late proposals, and source selection.

§ 44–3.801–2 Responsibility for determination of final price.

In the event a contractor insists on a price or demands a profit or fee which the Contracting Officer considers unreasonable and the Contracting Officer is unable to obtain a satisfactory solution after exhausting the courses of action set forth in 41 CFR 1–3.801–2(c), the matter shall be referred to the Head of the Procuring Activity, with a statement of facts and the Contracting Officer's recommendations, for resolution.

§ 44–3.802 Preparation for negotiation.

§ 44–3.802–2 Alternate procedures for consideration of late proposals.

When the Head of the Procuring Activity determines that the procedures set forth in 41 CFR 1–3.802–1 are not appropriate for certain classes of negotiated procurement conducted by FEMA, he may authorize the adoption of the procedures set forth in 41 CFR 1–3.802–2(b) for consideration of late proposals and modifications (except where the procurement of general purpose automated data processing equipment is involved unless use of the procedures set forth in 41 CFR 1–3.802–2(b) is expressly authorized by the

Commissioner, automated Data and Telecommunications Service, GSA)

§ 44-3.805 Selection of offerors for negotiation and award.

§ 44-3.805-50 Source selection procedures.

All competitive procurements in excess of $10,000 shall be subject to a formal selection procedure as described herein.

(a) A proposal evaluation team shall be appointed for each competitive procurement. For procurements under $500,000, the team shall be called the Technical Evaluation Panel. For those procurements in excess of $500,000, the team shall be called the Source Evaluation Board.

(b) Each competitive solicitation shall contain applicable selection criteria including the numerical ranking of each selecting official for those procurements under $500,000 shall be the Contracting Officer and for those over $500,000 the head of the cognizant program office shall be the selecting official.

(c) The proposal evaluation team shall evaluate each proposal against the criteria established in the request for proposal. The initial evaluation shall be to determine technical merit and then shall be combined with the business evaluation to determine the overall merit. Upon completion of this total evaluation the competitive range shall be established. The competitive range shall include those proposals which through written or oral discussions with the offeror, have a reasonable change of selection when all factors are considered, including cost. The competitive range shall be established by the Source Evaluation Board for procurements in excess of $500,000 and by the Contracting Officer on those under $500,000.

(d) discussions shall be conducted with all offerors in the competitive range. Each offeror shall be given an opportunity to submit a revised proposal. A common cutoff date shall be established for receipt of the revisions. Upon receipt the appropriate evaluation team shall evaluate and prepare a final ranking. A final recommendation report will be prepared and furnished to the selecting official. The selecting official for those procurements under $500,000 shall be the Contracting Officer and for those over $500,000 the head of the cognizant program office shall be the selecting official.

(e) The selecting official shall consider the recommendations and select the firm(s) for final negotiations. The Contracting Officer shall then enter into final negotiations with the selected firm(s) to resolve all remaining terms and conditions necessary to reach final agreement.

Subpart 3.51—Protests Against Award

§ 44-3.5101 Negotiated procurement protests.

Protests against award of neogtiated contracts shall be processed in accordance with FEMAPR 44-2.407-8 and 41 CFR 1-2.407-8.

PART 44-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Sec.

44-4.000 Scope and applicability of part.

Subpart 4.9—Unsolicited Proposals

44-4.900 Scope of subpart.
44-4.901 General.
44-4.902 Policy.
44-4.903 Program direction and operation.
44-4.904 Definitions.
44-4.905 Advance guidance.
44-4.906 Content of unsolicited proposals.
44-4.907 Submission.
44-4.908 Agency point of contact.
44-4.909 Receipt, review, and evaluation.
44-4.910 Method of procurement.
44-4.911 Prohibitions.
44-4.912 Interagency coordination.
44-4.913 Limited use of data.

Subpart 4.10—Architect-Engineer Services

44-4.1000 Scope of subpart.
44-4.1004 Selection.
44-4.1004-1 Establishment of architect-engineer evaluation boards.
44-4.1004-4 Source selection.
44-4.1004-50 Conflict of interest.
44-4.1004.51 Privity of information.

Subpart 4.11—Procurement and Contracting for Government-Wide Automated Data Processing Equipment, Software, Maintenance Services, and Supplies

44-4.1100 Scope of subpart.
44-4.1104 Request for procurement action.
44-4.1104-50 Clearance procedures.

Subpart 4.50—Interagency Procurement [Reserved]

§ 44-4.000 Scope and applicability of part.

This part sets forth policies and procedures regarding unsolicited proposals and the procurement of architect-engineer services, automatic data processing equipment and services, and property and services from other Federal agencies.

Subpart 4.9—Unsolicited Proposals

§ 44-4.900 Scope of subpart.

This subpart sets forth policies and procedures concerning the receipt, evaluation, and acceptance of unsolicited proposals.

§ 44-4.901 General.

The unsolicited proposal is a valuable means by which unique or innovative methods or approaches which have originated or developed outside the Government can be made available to FEMA for use in its mission. It is offered in the hope that FEMA will enter into a contract with the offeror for (a) research on or development of the methods, approaches, or ideas it contains, or (b) the conduct of the activity or services or delivery of the items it proposes. It should not be merely an advance proposal for a specific FEMA requirement which would normally be procured by competitive methods. An unsolicited proposal should be prepared independent of Government supervision. As it often represents a substantial investment of time and effort by the offeror, it should present the proposed work in sufficient detail to allow a determination that FEMA support could be worthwhile and that the proposed work could enhance, benefit, and/or provide valuable input to FEMA's research and development mission or to some other area of this Agency's responsibility.

§ 44-4.902 Policy.

FEMA fosters and encourages the submission of unsolicited proposals which contribute new ideas consistent with the contributing to the accomplishment of this Agency's objectives.

§ 44-4.903 Program direction and operation.

For detailed information on unsolicited proposals see 44-4.905 and 44-4.908 below.

§ 44-4.904 Definitions.

As used in this subpart, the following terms have the meanings stated.

(a) "Unsolicited proposal" means a written offer to perform a proposed task or effort, initiated and submitted to FEMA by a prospective contractor (offeror) without a solicitation by FEMA, with the objective of obtaining a contract. Advertising materials, commercial product offerings, contributions, or technical correspondence as defined in paragraphs (b) through (e) below which are submitted to this Agency shall not be considered to constitute unsolicited proposals within the intent of this subpart.

(b) "Advertising material" means material designed to acquaint FEMA with a prospective contractor's present off-the-shelf products or potential capabilities, or designed to determine

this Agency's interest in buying such products.

(c) "Commercial product offerings" means offers of standard commercial products usually sold in substantial quantities to the general public and which the vendor wishes to see introduced in the FEMA supply system as an alternate or replacement for an existing supply item.

(d) "Contributions" means concepts, suggestions, or merely ideas presented to FEMA for its use, with no indication on the part of the offeror that he will devote any further effort in relation to such concepts, suggestions, or ideas on behalf of this Agency.

(e) "Technical correspondence" includes written inquiries regarding FEMA interest in research areas, pre-proposal explorations, technical inquiries, and research descriptions.

§ 44–4.905 Advance guidance.

Organizations or individuals who are interested in submitting an unsolicited proposal are encouraged, before expending extensive effort in preparing a detailed unsolicited proposal or submitting any proprietary information to FEMA, to make preliminary inquiries as to the general need for the type of effort contemplated.

(a) Prior contact with FEMA technical personnel is permissible and encouraged with the limited objective of conveying to the prospective offeror an understanding of the FEMA mission and needs relative to the type of effort contemplated.

(b) The following information regarding policy and procedures for unsolicited proposals is furnished for the use of potential offerors.

(1) Definition—See 44–4.904(a) above

(2) Characteristics of a suitable proposal acceptable for formal evaluation. See 44–4.906 and 44–4.910 below.

(3) Prospective offerors are advised that:

(i) Any awards, based upon acceptance of unsolicited proposals, shall be made only to responsible prospective contracts who meet the standards set forth in 41 CFR 1–1.1203–1 and 1–1.1203–2 and such special standards as may be prescribed in 1–1.2303–3.

(ii) In the areas of research, this Agency's choice of a contractor shall be based primarily upon getting the job done effectively and efficiently with due regard to the long-term strength of the Nation's scientific and technical resources, and avoiding assignments of work which would create inherent conflicts of interest.

(iii) FEMA's Appropriation Act includes provisions requiring cost sharing by the contractor under research contracts resulting from unsolicited proposals. This requirement may only be waived when (A) the offeror certifies in writing to the Contracting Officer that it has no commercial, production, educational or service activities on which to use the results of the research and that it has no means of recovering any costs sharing on such projects; and (B) the Contracting Officer makes a written determination that there is no measurable gain to the performing organization and no mutuality of interest; therefore, it would not be equitable for the Government to require cost sharing.

(4) Prospective offerors, prior to investing substantial time and money in preparation of an unsolicited proposal, should correspond with Agency technical personnel as to the general need for the type of effort to be offered. (See 44–4.904(e) and 44–4.905(a) above, and 44–4.908 below.)

(5) The FEMA point of contact for information regarding unsolicited proposals and other types of transactions frequently misconstrued as unsolicited proposals, e.g., advertising, bidders mailing lists, etc., is the Acquisition Management Division, Policy and Support Branch (See 44–4.908 below).

(6) Information regarding unsolicited proposal submission procedures is contained in 44–4.906 through 44–4.913 below.

(7) Information regarding unsolicited proposal evaluation procedures is contained in 44–4.909 below.

(8) Information on FEMA objectives and areas of potential interest suitable for unsolicited proposal submissions may be obtained from this Agency's technical representatives through the Acquisition Management Division, Policy and Support Branch (See 44–4.908 below).

(9) Prospective offerors should identify any proprietary information that may be contained in proposals and any restrictive legend appearing in the proposal must conform to the legend set forth in 44–4.913(a) below.

(10) Unsolicited proposals shall conform to the procedural and submission guidelines contained in 44–4.906 through 44–4.913 below.

(c) All FEMA personnel shall conduct personal contacts in a manner that will preclude FEMA commitments regarding acceptability of unsolicited proposals.

§ 44–4.906 Content of unsolicited proposals.

Unsolicited proposals shall contain the following information in order to permit consideration in an orderly and timely manner.

(a) *Basic information.* Name and address of offeror; if an organization, indicate type; e.g., profit, nonprofit, educational, small business, names and telephone numbers of the offerors technical and business personnel whom FEMA may contact for evaluation and negotiation purposes; identification of any proprietary data which the offeror intends to be used by FEMA only for evaluation purposes (See 44–4.913 below), names of any other Federal, States, local agencies or other parties receiving the proposal and/or funding the proposed effort or activity; date of submission; and signature of a responsible official or authorized representative of the organization or a person authorized to contractually obligate the organization.

(b) *Technical information.* A concise title and an abstract (approximately 200 words) of the proposed effort; a reasonably complete discussion stating the objectives of the effort, the method of approach and extent of effort to be employed, the nature and extent of the anticipated results, and the manner in which the work will help support accomplishment of the FEMA mission; the names and brief biographical information of the offerors key personnel who would be involved and the types of support if any, the offeror requests of FEMA, e.g., facilities, equipment, materials, or personnel resources.

(c) *Supporting information.* A proposed price or total estimated cost; a cost estimate for the proposed effort sufficiently detailed by element of cost for meaningful evaluation; the type of contract preferred; period of time for which the proposal is valid (a minimum of 6 months is suggested); proposed duration of effort, statements, if applicable, regarding cost sharing, organizational conflicts of interests, security clearance status, and environmental impacts; and brief descriptions of the organization, previous work or experience in the field of the proposal, and facilities to be utilized for the work, where appropriate for understanding the proposal.

§ 44–4.907 Submission.

Unsolicited proposals shall be submitted in an original and five copies at least six months in advance of the offeror's desired beginning of the proposed effort in order to allow this Agency sufficient time to evaluate the

proposal and negotiate any resultant contract.

§ 44–4.908 Agency point of contact.

The Acquisition Management Division is the FEMA point of contact for the receipt, acknowledgement and handling of unsolicited proposals. Unsolicited proposals and requests for additional information regarding their preparation shall be submitted to:

Federal Emergency Management Agency, Acquisition Management Division, Policy & Support Branch (M Street Building), Washington, D.C. 20472.

Unsolicited proposals received by other FEMA offices shall be immediately furnished to the Acquisition Management Division, Policy & Support Branch.

§ 44–4.909 Receipt, review, and evaluation.

(a) The Acquisition Management Division shall acknowledge an unsolicited proposal within ten (10) days of its receipt. Simultaneously, copies of the proposal shall be sent to the appropriate program office(s) for evaluation.

(b) Prior to having a comprehensive evaluation made on any unsolicited proposal, the Acquisition Management Division shall insure that the proposal:

(1) Contains sufficient technical and cost information to permit a meaningful evaluation; and

(2) Has been approved by a responsible official of the offeror's organization or a person authorized to contractually obligate the organization.

(c) If the unsolicited proposal does not meet the requirements in (b) above, the Acquisition Management Division shall give the offeror the opportunity to provide the required data. A comprehensive evaluation of an unsolicited proposal shall not be made if the proposal is not within the purview of the mission of FEMA. In such cases the offeror shall be advised how the proposal is being interpreted, the reason(s) for not evaluating it, and the disposition of the material submitted. An appropriately revised or supplemented proposal which is responsive to the above may be reconsidered.

(d) For each unsolicited proposal that is circulated for a comprehensive evaluation within FEMA, the Acquisition Management Division shall attach a legend identifying it as an unsolicited proposal, and stating that it shall be used only for the purpose of evaluation (See 44–4.913(c) below). In evaluating unsolicited proposals, program officials shall consider, in addition to any other criteria, the following:

(1) Unique, innovative or meritorious methods, approaches, or ideas which originated with or are assembled together by the offeror that are contained in the proposed effort or activity.

(2) Overall scientific, technical, or socioeconomic merits of the proposed effort or activity.

(3) Potential contribution which the proposed effort is expected to make to the FEMA mission, if pursued at this time.

(4) Capabilities, related experience, facilities, or techniques, or unique combinations thereof which the offeror possesses and offers and which are considered to be integral factors for achieving the scientific, technical, or socioeconomic objective(s) of the proposal.

(5) Qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel who are considered to be critical in achieving the objectives of the proposal.

(e) Upon completion of the comprehensive evaluation, program officials shall notify the Acquisition Management Division of their conclusions together with recommendations for further action.

§ 44–4.910 Method of procurement.

(a) A favorable comprehensive evaluation of an unsolicited proposal is not, in itself, sufficient justification for negotiating on a noncompetitive basis with the offeror. When a document qualifies as an unsolicited proposal but the substance is available to the Government without restriction from another source, or closely resembles that of a pending requirement that will result in a competitive solicitation, or is otherwise not sufficiently unique to justify acceptance, the unsolicited proposal shall not be accepted and shall be returned to the offeror by the Acquisition Management Division with reasons for the return.

(b) A noncompetitive procurement is permissible when an unsolicited proposal has received a favorable technical evaluation, unless FEMA has determined that the substance thereof is available to the Government without restriction from another source, or a competitive procurement is otherwise appropriate. The program office sponsoring the procurement shall support its recommendation with a justification for a noncompetitive procurement. The justification shall be based on a comprehensive evaluation of the proposal and shall include the facts and circumstances that operate to preclude competition and that support the recommended noncompetitive action. Consideration shall include the evaluation factors listed in 44–4.909(d) above.

(c) When it is determined that the subject matter of an unsolicited proposal is acceptable for award on a noncompetitive basis, the unsolicited proposal will serve as the basis for negotiation.

§ 44–4.911 Prohibitions.

No unsolicited proposal nor any part of an unsolicited proposal shall be used as the basis, or as a portion, of a solicitation, or in negotiation with other firms unless the offeror is notified of and agrees to the intended use. However, FEMA may use any data, concept, or idea which it could have used had the unsolicited proposal not been submitted. Unauthorized disclosure of data tendered in an unsolicited proposal (see 44–4.913(a) below) which concerns or relates to trade secrets, processes, operations, style of work, or apparatus, or other matters may result in the imposition of a criminal penalty pursuant to the provisions of 18 U.S.C. 1905.

§ 44–4.912 Interagency coordination.

When it is determined that a meritorious unsolicited proposal is not related to the mission of FEMA or may be of interest to other agencies in addition to this Agency, FEMA may identify for the offeror other agencies whose missions bear a relationship to the subject matter of the unsolicited proposal.

§ 44–4.913 Limited use of data.

(a) An unsolicited proposal may include data which the offeror does not want disclosed for any purpose other than evaluation of the proposal. If the offeror wishes to impose such a restriction on his unsolicited proposal the offeror shall mark the title page with the following legend:

Use and Disclosure of Data

This data shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed in whole or in part for any purpose other than to evaluate the proposal, PROVIDED, That if a contract is awarded to this offeror as a result of or in connection with the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the contract. This restriction does not limit the Government's right to use information contained in the data if it is obtainable from another source without restriction. The data subject to this restriction is contained in Sheets ——.

The offeror also shall mark each sheet which the offeror wishes to restrict with the following legend:

Use of disclosure of proposal data is subject to the restriction on the title page of this proposal.

(b) If an unsolicited proposal is marked with a legend substantially different from that provided in (a) above, the Acquisition Management Division shall return the proposal to the offeror advising the offeror that the proposal cannot be considered because it is impracticable for the Government to comply with the legend. However, the offeror shall also be advised that the proposal will be considered if it is resubmitted with the legend provided in (a) above.

(c) Except as provided in paragraphs (d) or (e) below, the Acquisition Management Division shall place a cover sheet on the proposal or the proposal shall be otherwise clearly marked as follows unless the offeror gives a clear written indication that it does not wish to impose any restrictions on the disclosure or use of the data contained in the proposal.

Unsolicited Proposal

Use of Data Limited

All Government personnel handling this proposal shall exercise EXTREME CARE to insure that the information contained herein is not disclosed outside the Government and is NOT DUPLICATED, USED, OR DISCLOSED in whole or in part for any purpose other than to evaluate the proposal, without the written permission of the offeror (except that if a contract is awarded on the basis of this proposal, the terms of the contract shall control disclosure and use).

This notice does not limit the Government's right to use information contained in the proposal if it is obtainable from another source without restriction.

This is a Government notice, and shall not by itself be construed to impose any liability upon the Government or Government personnel for any disclosure or use of data contained in this proposal.

The notice in this paragraph (c) is used by FEMA solely as a manner of handling unsolicited proposals which will be compatible with the provisions of this section. Nevertheless, the use of the notice in this paragraph (c) shall not be used by FEMA to justify the withholding of a document (record) nor to improperly deny access to a document to an individual (the public) where an obligation is imposed on FEMA by the Freedom of Information Act, 5 U.S.C. 552, as amended. Matters which the prospective offeror considers to be trade secrets and commercial or financial information and privileged or confidential should be identified by the offeror upon submission to FEMA in accordance with (a) above.

(d) If an unsolicited proposal is received without any restrictive legend from an educational or nonprofit organization or institution and it is necessary or appropriate to obtain an evaluation outside the Government, the Acquisition Management Division shall place a cover sheet on the proposal or shall clearly mark the proposal with the legend set forth in (c) above, modified by changing the first two words to read "All Government and Non-Government," and by deleting the words "is not disclosed outside the Government and." The Acquisition Management Division shall obtain from any non-Government evaluator a written agreement that the evaluator will not disclose information in the proposal outside the Government. If the proposal is received with the restrictive legend specified in (a) above, the modified cover shall also be used and permission shall be obtained from the offeror, prior to release, for the release of the proposal for outside evaluation.

(e) If an unsolicited proposal is received from other than an education or nonprofit organization or institution irrespective of whether it contains a restrictive legend, and it is necessary or appropriate to obtain an evaluation of the proposal by Government personnel outside of FEMA and/or outside the Government, written permission shall be obtained from the offeror prior to release of the proposal for such evaluation. The Acquisition Management Division shall place a cover sheet on the proposal or shall clearly mark the proposal with the legend set forth in (c) above, if appropriate. The Acquisition Management Division shall obtain from any non-Government evaluator a written agreement that the evaluator will not disclose information in the proposal outside the Government.

Subpart 4.10—Architect-Engineer Services

§ 44-4.1000 Scope of subpart.

This subpart sets forth policies and procedures for the establishment of architect-engineer evaluation boards and for architect-engineer source selection.

§ 44-4.1004 Selection.

§ 44-4.1004-1 Establishment of architect-engineer evaluation boards.

Each architect-engineer evaluation board, whether permanent or ad hoc, shall consist of at least five voting members who are Federal employees from the appropriate FEMA program office or, from Federal offices outside the program office, as appropriate. One member of each board shall be appointed chairman. Five alternate members, who are Federal employees, shall also be appointed. The majority of voting members shall be from the program office concerned. The members of a permanent board shall be appointed by the Director for a period of two (2) years.

§ 44-4.1004-4 Source selection.

(a) The heads of offices cognizant over programs which from time to time may require architect-engineer services are designated as source selection officials for all procurements of architect-engineer services, and as such are vested with the authority to review the recommendations of the evaluation board and to make the final selection of the firms best qualified to perform the work, in accordance with the provisions of 41 CFR 1-4.1004-4. Rejections of the recommended firms and the reasons for their rejection will be in writing.

(b) Upon the determination of the qualified firms by the source selection official, a requisition shall be forwarded to the procuring office which shall indicate the order of qualification, including capability, of the selected firms. The procuring office shall then send a request for proposal to, and begin negotiations with, the firm ranked highest on the list.

§ 44-4.1004-50 Conflict of interest.

If at any time during the selection process a board member or advisor to the board, encounters a situation with one or more of the firms being considered that might be, or might appear to be, a conflict of interest, he will disqualify himself and call it to the attention of the chairman who shall refer the matter to the Office of General Counsel.

§ 44-4.1004-51 Privity of information.

The evaluation board is to be insulated from outside pressures to the extent practical. No person having knowledge of the activities of the board shall divulge information concerning the deliberations of the board to any other persons not having a need to know such information.

Subpart 4.11—Procurement and Contracting for Government-Wide Automated Data Processing Equipment, Software, Maintenance Service, and Supplies.

§ 44-4.1100 Scope of subpart.

This subpart sets forth policy governing the procurement of all automatic data processing equipment,

software, maintenance services, and supplies by FEMA.

§ 44-4.1104 Request for procurement action.

§ 44-4.1104-50 Clearance procedures.

No solicitation or modification to an existing contract, when related in whole or in part to the procurement of ADP equipment or services, shall be issued until approval is obtained from the General Services Administration pursuant to 41 CFR 1-4.1104.

Subpart 4.50—Interagency Procurement [Reserved]

PART 44-7—CONTRACT CLAUSES

Sec.

44-7.000 Scope of part

Subpart 7.50—Additional clauses.

44-7.5001 Additional clauses to be used in all contracts.
44-7.500-1 Notification of changes.
44-7.5001-2 Suspension of work.
44-7.5001-3 Affirmative action for disabled veterans and veterans of the Vietnam era.
44-7.5002 Additional clauses to be used in contracts as appropriate.
44-7.5002-1 Rights in technical data and computer software.
44-7.5002-2 Reproduction of reports.
44-7.5002-3 Coordination of Federal reporting requirements.
44-7.5002-4 Services of consultants.
44-7.5002-5 Publication.
44-7.5002-6 Indirect costs (actual).
44-7.5002-7 [Reserved]
44-7.5002-8 [Reserved]
44-7.5002-9 Consideration and payment (cost-sharing).
44-7.5002-10 Warranty.
44-7.5002-11 [Reserved]
44-7.5002-12 Method of payment—letter of credit.
44-7.5002-13 Cost Accounting Standard Withdrawal.
44-7.5002-14 Rights in Technical Data—Specific Acquisition.

Authority: Sec: 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-7.000 Scope of part.

This part sets forth special contract clauses which are in addition to clauses set forth in the FPR for use in connection with the procurement of personal property and nonpersonal services (including construction).

Subpart 7.50—Additional Clauses

§ 44-7.5001 Additional clauses to be used in all contracts.

§ 44-7.5001-1 Notification of changes.

Notification of Changes

(a) *Notices.* The Contractor shall notify the Contracting Officer within five (5) calendar days of receipt of any instruction which he/she considers to be a change to the contract terms and conditions. Instructions to be reported can include actions, inactions and written or oral communications but need not include written communication from the Contracting Officer specifically directing changes. Notice from the Contractor shall state:

(1) The date, nature, and circumstance of the instructions regarded as a change;

(2) The name, function, and activity of each Government individual and Contractor employee involved in or knowledgeable about such instructions; and

(3) The identification of any documents and the substance of any oral communication involved in such instruction.

(b) *Continued Performance.* Following submission of the notice required by (a) of this provision the Contractor shall continue performance of this contract in accordance with its terms and conditions as understood prior to receipt of said instruction. The Contractor shall *not* institute a change to the terms and conditions of the contract until specifically authorized by the Contracting Officer, in writing, to do so.

(c) *Contractor's Liability.* If the Contractor proceeds with any change to the terms and conditions of the contract without prior written approval from the Contracting Officer, the Contractor assumes all liability for costs incurred by such action.

§ 44-7.5001-2 Suspension of work.

Suspenson of work

(a) The Contracting Officer may, at any time, by written order to the contractor, require the contractor to suspend, delay or interrupt all, or any part, of the work called for by this contract for a period up to ninety (90) days after the order is delivered to the contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a suspension of work issued pursuant to this clause. Upon receipt of such an order, the contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work suspension. Within a period of ninety (90) days after a suspension of work order is delivered to the contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either:

(1) Cancel the suspension of work order; or

(2) Terminate the work covered by such order as provided in the "Termination for Convenience" clause of this contract.

(b) If a suspension of work issued under this clause is cancelled or the period of the order or any extension thereof expires, the contractor shall resume work. An equitable adjustment shall be made in the delivery schedule or contract price, or both, and the contract shall be modified in writing accordingly, if:

(1) The suspension of work results in an increase in the time required for, or in the contractor's cost properly allocable to, the performance of any part of this contract, and

(2) The contractor asserts a claim for such adjustment within thirty (30) days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify such action, he may receive and act upon any such claim asserted at any time prior to final payment under this contract.

Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

(c) If a suspension of work order is not cancelled and the work covered by such order is terminated for the convenience of the Government, the reasonable costs resulting from the suspension of work order shall be allowed in arriving at the termination settlement.

(d) If a suspension of work order is not cancelled and the work covered by such order is terminated for default, the reasonable costs resulting from the suspension of work order shall be allowed by equitable adjustment or otherwise.

§ 44-7.5001-3 Affirmative action for disabled veterans and veterans of the Vietnam era.

Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era

(a) The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran or veterans of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled veterans and veterans of the Vietnam era without discrimination based upon their disability or veterans status in all employment practices such as the following: employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees that all suitable employment openings of the contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall be listed at an appropriate local office of the State employment service system wherein the opening occurs. The contractor further agrees to provide such reports to such local office regarding employment openings and hires as may be required.

State and local government agencies holding Federal contracts of $10,000 or more shall also list all their suitable openings with the appropriate office of the State employment service, but are not required to provide those reports set forth in paragraphs (d) and (e).

(c) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal

obligations which attach to the placings of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicant or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.

(d) The reports required by paragraph (b) of this order shall include, but not be limited to periodic reports which shall be filed at least quarterly with the appropriate local office or, where the contractor has more than one hiring location in a State, with the central office of that State employment service. Such reports shall indicate for each hiring location (1) the number of individuals hired during the reporting period, (2) the number of nondisabled veterans of Vietnam era hired, (3) the number of disabled veterans of the Vietnam era hired, and (4) the total number of disabled veterans hired. The reports should include covered veterans hired for on-the-job training under 38 U.S.C. 1787. The contractor shall submit a report within 30 days after the end of each reporting period wherein any performance is made on this contract identifying data for each hiring location. The contractor shall maintain at each hiring location copies of the reports submitted until the expiration of one year after final payment under the contract, during which time these reports and related documentation shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor. Documentation would include personnel records respecting job openings, recruitment, and placement.

(e) Whenever the contractor becomes contractually bound to the listing provisions of this clause, it shall advise the employment service system in each State where it has establishments of the name and location of each hiring location in the State. As long as the contractor is contractually bound to these provisions and has so advised the State system, there is no need to advise the State system of subsequent contracts. The contractor may advise the State system when it is no longer bound by this contract clause.

(f) This clause does not apply to the listing of employment openings which occur and are filled outside the 50 States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(g) The provisions of paragraphs (b), (c), (d), and (e) of this clause do not apply to openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(h) As used in this clause:

(1) "All suitable employment openings" includes, but is not limited to, openings which occur in the following job categories: production and non-production; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings that are compensated on a salary basis of less than $25,000 per year. This term includes full-time employment, temporary employment of more than 3 days' duration, and part-time employment. It does not include openings which the contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement nor openings in an educational institution which are restricted to students of that institution. Under the most compelling circumstances an employment opening may not be suitable for listing, including such situations where the needs of the Government cannot reasonably be otherwise supplied, where listing would be contrary to national security, or where the requirement of listing would otherwise not be in the best interest of the Government.

(2) "Appropriate office of the State employment service system" means the local office of the Federal/State national system of public employment offices with assigned responsibility for serving the area where the employment opening is to be filled, including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

(3) "Openings which the contractor proposes to fill from within his own organization" means employment openings for which no consideration will be given to persons outside the contractor's organization (including any affiliates, subsidiaries, and the parent companies) and includes any openings which the contractor proposes to fill from regularly established "recall" lists.

(4) "Openings which the contractor proposes to fill pursuant to a customary and traditional employer-union hiring arrangement" means employment openings which the contractor proposes to fill from union halls, which is part of the customary and traditional hiring relationship which exists between the contractor and representatives of his employees.

(i) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(j) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(k) The contractor agrees to post in conspicuous places available to employees and applicants for employment notices in a form to be prescribed by the Director, provided by or through the Contracting Officer. Such notice shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era for employment, and the rights of applicants and employees.

(l) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by terms of the Vietnam Era Veteran's Readjustment Assistance Act and is committed to take affirmative action to employ and advance in employment qualified disabled veterans and veterans of the Vietnam era.

(m) The contractor will include the provisions of this clause in every subcontract or purchase order of $10,000 or more unless exempted by rules, regulations, or orders of the Secretary issued pursuant to the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director of the Office of Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

§ 44-7.5002 Additional clauses to be used in contracts as appropriate.

§ 44-7.5002-1 Rights in technical data and computer software.

Rights in Data

(a) Definitions. (1) Technical Data means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate materiel. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications standards, process sheets, manuals, technical reports, catalog item identifications and related information and computer software documentation. Technical data does not include computer software or financial, administrative, cost and pricing, and management data or other information incidental to contract administration.

(2) Computer—a data processing device capable of accepting data, performing prescribed operations on the data, and suppling the results of these operations; for example, a device that operates on discrete data by performing arithmetic and logic processes on these data, or a device that operates on analog data by performing physical processes on the data.

(3) Computer Software—computer programs and computer data bases

(4) Computer Program—a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or designed to satisfy the requirements of a particular user.

(5) Computer Data Base—a collection of data in a form capable of being processed and operated on by a computer.

(6) Computer Software Documentation—Technical data, including computer listing and printouts, in human-readable form which (i) documents the design or details of computer software, (ii) explains the capabilities of the software, or (iii) provides operating instructions for using the software to obtain desired results from a computer.

(7) Unlimited Rights means rights to use, duplicate, or disclose technical data or computer software in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(8) Limited Rights means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data be (a) released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the Government, except for:

(i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, provided that the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release of disclosure; or

(ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above.

(9) Restricted Rights apply only to computer software, and include, as a minimum, the right to:

(i) use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

(ii) use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(iii) copy computer programs for safekeeping (archives) or backup purposes;

(iv) modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights; and

(v) treat computer software bearing a copyright notice as a published copyrighted work; and in addition, any other specific rights not inconsistent therewith listed or described in this contract or described in a license or agreement made a part of this contract.

(b) Government Rights. (1) Unlimited Rights. The Government shall have unlimited rights in:

(i) technical data and computer software resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contact or subcontact;

(ii) computer software required to be originated or developed under a Government contract, or generated as a necessary part of performing a contract;

(iii) computer data bases, prepared under a Government contract, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain;

(iv) technical data necessary to enable manufacture of end-items, components and modifications, or to enable the performance of processes, when the end-items, components, modifications or processes have been, or are being, developed under this or any other Government contract or subcontract in which experimental, developmental or research work is, or was specified as an element of contract performance, except technical data pertaining to items, components, processes, or computer software developed at private expense (but see (2)(ii) below);

(v) technical data or computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished data or computer software;

(vi) technical data pertaining to end-items; components or processes, prepared or required to be delivered under this or any other Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(vii) manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance or training purposes;

(viii) technical data or computer software which is in the public domain, or has been or is normally furnished without restriction by the Contractor or subcontractor; and

(ix) technical data or computer software listed or described in an agreement incorporated into the schedule of this contract which the parties have predetermined, on the basis or subparagraphs (i) through (viii) above, and agreed will be furnished with unlimited rights.

(2) Limited Rights. The Government shall have limited rights in:

(i) technical data, listed or described in an agreement incorporated into the Schedule of this contract, which the parties have agreed will be furnished with limited rights; and

(ii) technical data pertaining to items, components or processes developed at private expense, and computer software documentation related to computer software that is acquired with restricted rights, other than such data as may be included in the data referred to in (b)(1)(i), (v), (viii), and (viii); provided that only the portion or portions of each piece of data to which limited rights are to be asserted pursuant to (2) (i) and (ii) above are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below in which is inserted:

A. the number of the prime contract under which the technical data is to be delivered,

B. the name of the Contractor and any subcontractor by whom the technical data was generated, and

C. an explanation of the method used to identify limited rights data.

Limited Rights Legend

Contract No. ———
Contractor: ———
Explanation of Limited Rights Identification Method Used

———

Those portions of this technical data indicated as limited rights data shall not, without the written permission of the above Contractor, be either (a) used, released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture or, in the case of computer software documenation, for preparing the same or similar computer software, or (c) used by a party other than the Government, except for: (i) emergency repair or overhaul work only, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, provided that the release or disclosure hereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; or (ii) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (i) above. This legend, together with the indications of the portions of this data which are subject to such limitations shall be included on any reproduction hereof which includes any part of the portions subject to such limitations.

(3) Restricted Rights. The Government shall have restricted rights in computer software, listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, provided, however, notwithstanding any contrary provision in any such license or agreement, the Government shall have the rights in (a)(9)(i) through (v). Such restricted rights are of no effect unless the computer software is marked by the Contractor with the following legend:

Restricted Rights Legend

Use, duplication or disclosure is subject to restrictions stated in Contract No. ——— with ——— (Name of Contractor) ———.

and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license or agreement made a part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the Government of liability with respect to such unmarked software.

(4) No legend shall be marked on, nor shall any limitation or restriction on rights of use be asserted as to, any data or computer software which the Contractor has previously delivered to the Government without restriction. The limited or restricted rights provided for by this paragraph shall not impair the right of the Government to use similar or identical data or computer software acquired from other sources.

(c) Material Covered by Copyright. (1) In addition to the rights granted under the provisions of (b) above, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data, except computer software documentation bearing a copyright notice and furnished in support of restricted rights computer software, and unlimited rights computer software prepared or required to be delivered under the contract, now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyright matter in the manner described in (c)(1) above, unless the written approval of the Contracting Officer is obtained.

(3) The Contractor shall report to the Government (or higher-tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data or computer software delivered hereunder.

(d) Removal of Unauthorized Markings. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any technical data or computer software furnished hereunder, if:

(i) the Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings, or

(ii) the Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of limited rights markings by clear and convincing evidence, or of restricted rights markings by identification of the restrictions set forth in the contract.

In either case the Government shall give written notice to the Contractor of the action taken.

(e) Relation to Patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) Limitation on Charges for Data and Computer Software. The Contractor recognizes that the Government or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data or computer software on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data or computer software which the Government has a right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data or computer software. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund or amounts received by the Contractor with respect to any such charges not so excluded.

(g) Acquisition of Data and Computer Software from Subcontractors. (1) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in that subcontractor data or computer software which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next-higher tier Contractor. However, when there is a requirement in the prime contract for data which may be submitted with limited rights pursuant to (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data-or computer software from their subcontractors for themselves.

§ 44-7.5002-2 Reproduction of reports.

Include the following clause when the product of the contract is a report, data or other written material.

Reproduction of Reports

Reproduction of reports, data or other written material, if required herein is authorized provided that the material produced does not exceed 5,000 production units of any page and that items consisting of multiple pages do not exceed 25,000 production units in aggregate. The aggregate number of production units is to be determined by multiplying pages times copies. A production unit is one sheet, size 8½ by 11 inches or less, printed on one size only and in one color. All copy preparation to produce camera ready copy for reproduction must be set by methods other than hot metal typesetting. The reports should be produced by methods employing stencils masters and plates which are to be used on single unit duplicating equipment no larger than 11 by 17 inches with a maximum image of 10¾ by 14¼ inches and are prepared by methods or devices that do not utilize reusable contact negatives and/or positives prepared with a camera requiring a darkroom. All reproducibles (camera ready copies for reproduction by photo offset methods) shall become the property of the Government and shall be delivered to the Government with the report, data or other written material.

§ 44-7.5002-3 Coordination of Federal reporting requirements.

The following clause shall be included in contracts when appropriate:

Coordination of Federal Reporting Services

In the event that it is a contractual requirement to collect information from ten or more public respondents, the provisions of 44 U.S.C., Chapter 35 (Coordination of Federal Reporting Requirements), shall apply to this contract. The contractor shall obtain through the Project Officer the required Office of Management and Budget clearance before making public contacts for the collection of data or expending any funds for such collection. The authority to proceed with the collection of data from public respondents and the expenditure of funds therefor shall be in writing signed by the Contracting Officer.

§ 44-7.5002-4 Services of consultants.

The following clause shall be used in contracts where it is anticipated that consultant services may be used:

Services of Consultants

Except as otherwise expressly provided elsewhere in this contract, and notwithstanding the provisions of the clause of this contract entitled, "Subcontracting" the prior written approval of the Contracting Officer shall be required:

(a) Whenever any employee of the contractor is to be reimbursed as a "consultant" under this contract; and

(b) For the utilization of the services of any consultant under this contract except when the consultant has been identified and rates established during negotiations of this contract.

Whenever Contracting Officer approval is required, the contractor shall obtain and furnish to the Contracting Officer information concerning the need of such consultant services and the reasonableness of the fees to be paid, including, but not limited to, whether fees to be paid to any consultant exceed the lowest fee charged by such consultant to others for performing consultant services of a similar nature.

§ 44-7.5002-5 Publication.

The following clause shall be used in all contracts under which it is anticipated that a report will be a product:

Publication

(a) *Definition.* For the purpose of this clause, "publication" includes (1) any document containing information intended for public consumption or (2) the act of, or

any act which may result in disclosing information to the public.

(b) *General.* The results of the research and development and studies conducted under this contract are to be made available to the public through dedication, assignment to the Government, or such other means as the Director of the Federal Emergency Management Agency shall determine.

(c) *Reports furnished the Government.* All intermediate and final reports of the research and development and studies conducted hereunder shall indicate on the cover or other initial page that the research and development and studies forming the basis for the report were conducted pursuant to a contract with the Federal Emergency Management Agency. Such reports are official Government property and may not be published or reproduced (in toto, in verbatim excerpt, or in a form approximating either of these) as an unofficial paper or article. The contractor or technical personnel (each employee or consultant working under the administrative direction of the contractor or any subcontractor hereunder) may publish such reports in whole or in part in a non-Government publication only in accordance with this paragraph (c) and paragraph (e) (1) of this clause.

(d) *Publication by Government.* The Government shall have full right to publish all information, data, and findings developed as a result of the research and development and studies conducted hereunder.

(e) *Publication by contractor or technical personnel.* (1) *Publication in whole or in part of contractor's reports furnished the Government.* Unless such reports have been placed in the public domain by Government publication, the contractor or technical personnel (each employee or consultant working under the administrative direction of the contractor or any subcontractor hereunder) may publish a report furnished the Government, in toto or in verbatim excerpt, but consistent with paragraph (c) of this clause may not secure copyright therein, subject to the following conditions, and the conditions in paragraph (e)(4) and paragraph (f):

(i) During the first six months after submission of the full final report, if written permission to publish is obtained from the Contracting Officer.

(ii) After six months following submission of the full final report, and if paragraph (e)(3) is inapplicable, if a foreword or footnote in the non-Government publication indicates the source of the verbatim material.

(2) *Publication, except verbatim excerpts, concerning or based in whole or in part on results of research and development and studies hereunder.* The contractor or technical personnel may issue a publication concerning, or based in whole or in part on the results of, the research and development and studies conducted under this contract and may secure copyright therein but in so publishing is not authorized thereby to inhibit the unrestricted right of the Director of the Federal Emergency Management Agency to disclose or publish in such manner as he may deem to be in the public interest the results of such research and development and studies, subject to the following conditions and the requirement in paragraph (e)(4):

(i) During the first six months after submission of the full final report, and if paragraph (e)(3) is inapplicable, if written waiver of the waiting period is obtained from the Contracting Officer.

(ii) After six months following submission of the full final report, and if paragraph (e)(3) is inapplicable, subject to Government exercise of an option that the publication contain a foreword or initial footnote substantially as follows:

The (research) (development) (studies) forming (part of) the basis for this publication were conducted pursuant to a contract with the Federal Emergency Management Agency. The substance of such (research) (development) (studies) is dedicated to the public. The author and publisher are solely responsible for the accuracy of statements or interpretations contained herein.

(3) *General condition if FEMA determines that contractor's final report contains patentable subject matter developed in contract performance.* If the Contracting Officer determines that the contractor's full final report contains patentable subject matter developed in the performance of this contract and so notifies the contractor in writing prior to six months from date of submission of such report, no publication of verbatim excerpts from contractor's reports or publication concerning or based in whole or in part on the results of the research and development and studies hereunder shall be made without the written consent of the Contracting Officer.

(4) *Copies of contractor and technical personnel publications to be furnished the Government.* The contractor or technical personnel will furnish the Contracting Officer six (6) copies of any publications which are based in whole or in part on the research and development and studies conducted under this contract.

(f) *Administratively confidential information.* The contractor shall not publish or otherwise disclose, except to the Government and except matters of public record, any information or data obtained hereunder from private individuals, organizations, or public agencies, in a publication whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

(g) *Inclusion of provisions in contractor's agreements.* The contractor shall include provisions appropriate to effectuate the purposes of this clause in all contracts of employment with persons who perform any part of the research or development or study under this contract and in any consultant's agreements or subcontracts involving research or development or study hereunder.

§ 44-7.5002-6 Indirect costs (actual).

When it has been determined pursuant to FEMAPR 44-3.702(c) that it is not appropriate to include the Negotiated Overhead Rates clause set forth in 41 CFR 1-3.704, the following clause shall be inserted:

(Indirect Costs (Actual))

In accordance with the "Allowable Cost, Fixed-Fee, and Payment" clause of the contract, the contractor shall be paid his actual overhead cost. Allowable overhead cost will be determined by the Contracting Officer in accordance with the principles set forth in 41 CFR Part 1-15. Any failure of the parties hereto to agree as to what constitutes actual overhead costs shall be considered a dispute covering a question of fact within the meaning of the clause of this contract entitled "Disputes".

§ 44-7.5002-7 [Reserved]

§ 44-7.5002-8 [Reserved]

§ 44-7.5002-9 Consideration and payment (cost-sharing).

The following clause shall be inserted in each cost-sharing contract:

Consideration and Payment (Cost-Sharing)

(a) The estimated cost for the performance of this contract is $————. The contractor agrees to bear without reimbursement by the Government —% of the cost for performance hereunder. Such cost sharing shall be effected as set forth in Paragraph (b) below.

(b) Public vouchers or invoices shall be submitted in an original and five (5) copies and shall show the total cost incurred for the period for which the voucher or invoice is submitted, the cumulative total of costs incurred through the billing period, and the percentage of costs to be reimbursed by the Government. However, the Government is not obligated to reimburse the contractor in excess of————% of such amount. The Government shall not be obligated to reimburse the contractor for the Government's share of the costs in excess of $————nor is the contractor obligated by this contract to expend his own funds in excess of $————.

§ 44-7.5002-10 Warranty.

When it has been determined that it is appropriate to place a warranty on equipment or services furnished under a contract, insert the following clause set forth below. Each construction contract shall incorporate an appropriate clause.

Warranty

The contractor agrees that the supplies or services furnished by the contractor under this contract shall be covered by warranties which are either standard or customary in the trade or are substantially similar to, and not in excess of, a standard or customary trade warranty. The contractor shall furnish any warranty description at time of delivery. Supply package shall be simply marked to show existence of the warranty, its expiration date and the company official to be notified.

§ 44-7.5002-11 [Reserved]

§ 44-7.5002-12 Methods of payment—Letter of Credit.

(a) The contractor shall be paid with funds made available under the Federal Reserve Letter of Credit No.————, established by————, Federal Emergency Management Agency (FEMA), against which the contractor will withdraw funds pursuant to prescribed

Federal Reserve Letter of Credit procedures, as implemented by FEMA.

(b) The contractor shall: (1) initiate cash drawdowns only when actually needed for its disbursements, (2) timely report cash disbursements and balances as required by the Contracting Officer, and (3) impose the same standards of timing and amount upon any secondary recipients including the furnishing of reports of cash disbursements and balances. Failure to adhere to these material provisions will be considered an event under paragraph (f) of this clause.

(c) The funds drawn by the contractor against the Federal Reserve Letter of credit referred to above shall be only for current allowable expenditures necessary for the performance of the contract.

(d) Then so requested in writing by the Contracting Officer, the contractor shall repay to the government, in accordance with prescribed agency procedures, such part in the unliquidated balance of the advance payments as shall, in the opinion of the Contracting Officer, be in excess of the contractor's current needs or in excess of the contract price.

(e) If upon completion or termination of this contract all amounts obtained by the contractor under this letter of credit shall have not been fully liquidated by authorized charges under the contract, the balance thereof shall be deducted from any sums otherwise due to the contractor from the Government, and any excess funds shall be repaid by the contractor to the Government.

(f) Upon the happening of any of the following events of default: (1) a finding by the Contracting Officer that the contractor (i) has failed to observe any of the convenants, conditions, or warranties of these provisions or has failed to comply with any material provision of this contract, or (ii) has so failed to make progress, or is in such unsatisfactory financial condition, as to endanger performance of this contract, or (iii) has allocated inventory to this contract substantially exceeding reasonable requirements, or (iv) is delinquent in payment of taxes or of the costs of performance of this contract in the ordinary course of business; (2) appointment of a trustee, receiver or liquidator for all or a substantial part of the contractor's property, or institution of bankruptcy, reorganization, arrangement or liquidation proceedings, by or against the contractor; (3) service of any writ of attachment, levy of execution, or commencement of garnishment proceedings; or (4) the commission of an act of bankrutcy; the Government, without limiting any rights which it may otherwise have, may, in its discretion and upon written notice to the contractor withhold further withdrawals under the Letter of Credit and withhold further payments on this contract.

(g) Upon the continuance of any such events of default for a period of thirty (30) days after such written notice to the contractor, the Government may, in its discretion, and without limiting any other rights which the Government may have, take the following additional actions as it may deem appropriate in the circumstances:

(1) Charge interest on advance payments outstanding during the period of any such default at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41, 85 Stat. 97 for the Renegotiation Board;

(2) Demand immediate repayment of the unliquidated balance of advance payments hereunder; or

(3) Take possession of and, with or without advertisements, sell at public sale at which the Government may be the purchaser, or at a private sale, all or any part of the property on which the Government has a lien under this contract and, after deducting any expenses incident to such sale, apply the net proceeds of such sale in reduction of the unliquidated balance of advance payments hereunder and in reduction of any other claims of the Government against the contractor.

(h) Notwithstanding any other provision of this contract, the contractor shall not transfer, pledge, or otherwise assign this contract, or any interest therein, or any claim arising thereunder, to any party or parties, bank, trust company, or other financing institution.

(i)(1) Interest shall be charged in the manner provided herein at the rate established by the Secretary of the Treasury pursuant to Public Law 92–41; 85 Stat. 97, for the Renegotiation Board on subadvances or downpayments to subcontractors, and such interest will be credited to the account of the Government. However, interest need not be charged on subadvances on subcontracts with nonprofit educational or research institutions for experimental, developmental or research work.

(2) The office administering advance payments is designated as the Acquisition Management Division.

(j) For the performance of this contract, the Government shall pay the contractor: The cost thereof (hereinafter referred to as "allowable cost" determined by the Contracting Officer to be allowable in accordance with (1) 41 CFR 1–15 as in effect on the date of this contract; and (2) the terms of this contract.

(k) For the purpose of determining amounts to be advanced under this contract, costs previously incurred shall only include those recorded costs which result, at the time of requests for further advances, from payment by cash, check, or other form of actual payment for items or services purchased directly for the contract, together with (when the contractor is not delinquent in payment of costs of contract performance in the ordinary course of business) costs incurred, but not necessarily paid for materials which have been issued from the contractor's stores inventory and production process for use on the contract, for direct labor, for direct travel, for other direct inhouse costs, and for properly allocable and allowable indirect costs, as is shown by records maintained by the contractor for purposes of obtaining reimbursement under Government contracts plus the amount of progress payments which have been paid to the Contractor's subcontractors under similar cost standards. In addition, when pension contributions are paid by the contractor to the retirement fund less frequently than quarterly, accrued costs therefor shall be excluded from indirect costs for purposes of obtaining advances under this contract until such costs are paid. If pension contributions are paid on a quarterly or more frequent basis, accruals therefor may be included in indirect costs for payment purposes provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from indirect cost for payment purposes of obtaining advances under this contract until payment has been made.

(l) The contractor shall submit an invoice or a voucher designated as a "Completion Invoice" or "Completion Voucher" promptly following completion of the work under this contract but in no event later than one year (or such longer time as the Contracting Officer may in his discretion approve in writing) from the date of such completion. The Contracting Officer can direct that a final report of expenditures be included with the completion invoice or voucher.

(m) The contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the contractor or any assignee under this contract shall be paid by the contractor to the Government, to the extent that they are properly allocable to costs for which the contractor has been reimbursed by the Government under this contract. Reasonable expenses incurred by the contractor for the purpose of securing such refunds, rebates, credits, or other amounts shall be allowable costs hereunder when approved by the Contracting Officer. Prior to final payment under this contract, the contractor shall execute and deliver:

(1) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including any interest thereon) properly allowable to costs for which the contractor has been reimbursed by the Government under this contract; and

(2) A release discharging the government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract subject only to the following exceptions:

(i) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statements by the contractor;

(ii) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the contractor to third parties arising out of the performance of this contract; provided, however, that such claims are not known to the contractor on the date of the execution of the release, and provided further, that the contractor gives notice of such claims in writing to the Contracting Officer not more than six years after the date of the release or the date of any notice to the contractor that the Government is prepared to make final payment, whichever is earlier; and

(iii) Claims for reimbursement of costs (other than expenses of the contractor by reason of its indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the contractor under the provisions of this contract relating to patents.

(n) Any cost incurred by the contractor under the terms of this contract which would constitute allowable cost under the provisions of this clause shall be included in determining the amount payable under this contract, notwithstanding any provisions contained in the specifications or other documents incorporated in this contract by references, designating services to be performed or materials to be furnished by the contractor at his expense or without cost to the Government.

§ 44-7.5002-13 Cost Accounting Standard Withdrawal.

Cost Accounting Standard 414—Cost of money as an element of cost of facilities capital—is withdrawn from application to the provisions of the clauses in this contract entitled "Cost Accounting Standards" and "Administration of Cost Accounting Standards."

§ 44-7.5002-14 Rights in Technical Data—Specific Acquisition.

(a) Definition. Technical Data means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research, experimental, developmental or engineering work; or be usable or used to define a design or process or to procure, produce, support, maintain, or operate material. The data may be graphic or pictorial delineations in media such as drawings or photographs; text in specifications or related performance or design type documents; or computer printouts. Examples of technical data include research and engineering data, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalogs item identifications, and related information, and documentation related to computer software. Technical data does not include computer software or financial, administrative, cost and pricing, and management data, or other information incidental to contract administration.

(b) Government Rights. The Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others so do, all or any part of the technical data delivered by the Contractor to the Government under this contract.

(c) Material Covered by Copyright. (1) In addition to the rights granted under the provisions of (b) above, the Contractor agrees to and does hereby grant to the Government a royalty-free, nonexclusive and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of, and to authorize others so to do, all technical data, required to be delivered under the contract, now or hereafter covered by copyright.

(2) Copyrighted matter shall not be included in technical data furnished hereunder without the written permission of the copyright owner for the Government to use such copyrighted matter in the manner described in (c)(1) above, unless the written approval of the Contracting Officer is obtained.

(3) The Contractor shall report to the Government (or higher-tier Contractor) promptly and in reasonable written detail each notice or claim of copyright infringement received by the Contractor with respect to any technical data delivered hereunder.

(d) Relation to Patents. Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) Limitation on Charges for Data. The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data which the Government has a right to use and disclose to others which is in the public domain, which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

PART 44-11—FEDERAL, STATE, AND LOCAL TAXES

Sec.

§ 44-11.000 Scope of part.

Subpart 11.4—Contract Clauses

§ 44-11.401-4 Matters requiring special consideration.

Subpart 11.50—Resolution of Tax Problems

§ 44-11.500-1 Resolution of tax problems.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-11.000 Scope of part.

This part sets forth policies and procedures for dealing with matters concerning Federal, State or local taxes.

Subpart 11.4—Contract Clauses

§ 44-11.401-4 Matters requiring special consideration.

Pursuant to 41 CFR 1-11.401-4(d), it is the policy of FEMA to implement the procedures set forth in 41 CFR 1-11.404-4 (a), (b), and (c) as appropriate.

Subpart 11.50—Resolution of Tax Problems

§ 44-11.500-1 Resolution of tax problems.

In order to have uniformity in FEMA's treatment of the tax aspects of a contract and to insure effective cooperation with other Government agencies on tax matters of mutual interest, the Office of General Counsel has the responsibility within FEMA for handling all tax problems. Therefore, procuring offices will not engage in negotiation with any taxing authority for the purpose of determining the validity or applicability of, or obtaining exemptions from or refund of, any tax. When a problem exists, the Contracting Officer shall request in writing the assistance of the Office of General Counsel. The request shall detail the problem and be accompanied by appropriate backup data. The Office of General Counsel shall report to the Contracting Officer as to the necessary disposition of the tax problem. The Contracting Officer will notify the contractor of the outcome of the tax problem. The Office of General Counsel shall have the responsibility for communications with the Department of Justice for representation or intervention in proceedings concerning taxes.

PART 44-13—GOVERNMENT PROPERTY

Sec.

44-13.000 Scope of part.
44-13.001 General policy.

Subpart 13.1—Definitions

44-13.100 Scope of subpart.
44-13.101 Government property.
44-13.102 Real property.
44-13.103 Personal property.
44-13.104 Facilities.

Subpart 13.2—Furnishing Government Property to Contractors

44-13.201 Responsibility of FEMA.
44-13.202 Availability of required property.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganizaion Plan No. 3 of 1978, 43 FR 41943.

§ 44-13.000 Scope of part.

This part sets forth policy concerning the furnishing of Government property to contractors under FEMA contracts.

§ 44-13.001 General policy.

It is the general policy of FEMA to contract with suppliers which are able to perform the requirements of a contract without being furnished property by the Government. This policy has been established to prevent FEMA from assuming any responsibility for the performance of work under a contract which rightly vests in the contractor,

and to preclude the possibility of creating an unfair competitive advantage for one prospective contractor over another. However, circumstances may arise in which the interests of the Government would be best served by furnishing property to contractors, such as in a case where the property is necessary to contract performance, or, when furnishing Government property will result in substantial cost savings to the Government.

Subpart 13.1—Definitions

§ 44-13.100 Scope of subpart.

For purposes of this part, and unless otherwise indicated, the following terms have the meaning set forth in this subpart.

§ 44-13.101 Government property.

"Government property" means all property furnished by the Government or acquired with Federal funds by the contractor for use in performance of his contractual obligations. Government property includes Government-furnished property and contractor-acquired property as defined below:

(a) "Government-furnished property" is property in the possession of, or acquired directly by, the Government and subsequently delivered or otherwise made available to the contractor; and

(b) "Contractor-acquired property" is property procured or otherwise provided by the contractor for the performance of a contract, title to which is vested in the Government.

§ 44-13.102 Real property.

"Real Property" means land, buildings or items permanently affixed to either land or buildings.

§ 44-13.103 Personal property.

"Personal property" means all property that is subject to ownership except real property. Personal property includes:

(a) *Reportable property.* All property other than real property having a unit acquisition cost of $100.00 or more and tools regardless of cost.

(b) *Expendable property (material).* Property which may be incorporated into, or attached to, an end item to be delivered under the contract or which may be consumed or expended in the performance of the contract.

It is the general policy of FEMA that contractors will furnish all materials required for the performance of its contracts. However, furnishing materials to contractors could be preferable when:

(1) The material is not readily available on the market or cannot be conveniently manufactured by a contractor or his subcontractors. This premise is valid only if the Government has the material in inventory or can readily obtain it;

(2) The cost would be less than if the contractor obtained the material;

(3) The Government may already be exercising control over the material;

(4) Standardization or Government-design control is desired;

(5) It is necessary to expedite the research; and

(6) Furnishing the material may significantly broaden the competitive base.

(c) *Residual materials and property.* All serviceable material not consumed in the performance of a contract, and all unserviceable or scrap equipment not consumed in the performance of a contract.

§ 44-13.104 Facilities.

"Facilities" means all industrial property (other than material, special tooling, military or space property, special test equipment and technical information) used for the production, maintenance, research, development, or test, including real property and rights therein, buildings, structures, improvements, and plant equipment.

Subpart 13.2—Furnishing Government Property to Contractors

§ 44-13.201 Responsibility of FEMA.

When the Government furnishes property it assumes a direct role in the performance of the contract. Therefore, the furnishing of Government property should be carefully planned and scheduled in order to avoid delays or mistakes. When Government-furnished property is essential for performance of the contract, FEMA must insure that the contractor receives the property in the specified quantities and at the required time.

§ 44-13.202 Availability of required property.

(a) Prior to making a decision to furnish property to a prospective contractor, the Contracting Officer shall first ascertain whether the subject property is available by inquiring into existing inventories. Property requested should be identified by functional need in order to maximize the effectiveness of furnishing Government property. The functions to which the Government furnished property are to be applied should be analyzed to determine what types of equipment can be used from available sources.

(b) When existing Government property is not available or suitable, the contractor may be authorized (subject to surveillance and approval of the Contracting Officer) to purchase new property. The contractor then vouchers for the property along with the normal billing process, is reimbursed and the Government takes title to the property. Contractor-acquired and Government furnished property can be combined in the same contract.

PART 44-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Sec.

44-15.000 Scope of part.

Subpart 15.50—Suspension and Disallowance of Contract Costs

44-15.5000 Scope of subpart.
44-15.5001 Suspension and disallowance of costs.
44-15.5001-1 Procedure.
44-15.5001-2 Recourse to determination of cost as unallowable.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-15.000 Scope of part.

This part sets forth policies and procedures concerning unallowable costs.

Subpart 15.50 Suspension and Disallowance of Contract Costs

§ 44-15.5000 Scope of subpart.

This subpart sets forth policies and procedures concerning suspension and disallowance of contract costs and recourse to determination of costs as unallowable.

§ 44-15.5001 Suspension and disallowance of costs.

§ 44-15.5001-1 Procedure.

In the event that the contractor presents a cost for reimbursement which the Contracting Officer considers to be unallowable, questionably allowable or partially unallowable, either specifically pursuant to 41 CFR 1-15, or consistent with the intent thereof, he shall notify the Division of Budget and Finance, the Project Officer, and the contractor that the subject cost, plus any corresponding overhead, general and administrative expense, indirect cost or fee associated with its incurrence, is being suspended pending receipt of supporting documentation from the contractor justifying the cost. This notification in each case shall be in writing and shall be accompanied by a copy of the invoice indicating the questioned cost. The notification to the contractor shall also indicate that supporting documentation for the cost must be received within thirty days, or such longer period as may be granted by the Contracting Officer, or the cost will be disallowed pending final audit. The notification to the Division of

Budget and Finance shall also indicate that the cost and associated pool costs and/or fee should not be reimbursed. If the contractor provides the requested documentation, and the Contracting Officer considers it to adequately support the cost as allowable, the Contracting Officer shall so notify the contractor and advise him to resubmit the cost and associated pool costs on his next invoice clearly indicating the origin and identity of the cost. In the event that the contractor should fail to submit the requested documentation, or if the supporting documentation is considered to be inadequate, or does not support the cost as allowable, the Contracting Officer shall notify the contractor, in writing, to this effect and advise him that the cost is being disallowed and, therefore, shall not be reimbursed.

§ 44-15.5001-2 Recourse to determination of cost as unallowable.

When the Contracting Officer has determined, in accordance with the foregoing procedure, that a cost is unallowable, his decision shall be final and conclusive unless the contractor seeks remedy pursuant to the "Disputes" clause of the contract.

PART 44-16—PROCUREMENT FORMS

Sec.

44-16.000 Scope of part.

Subpart 16.1—Forms for Advertised Supply Contracts

44-16.101 Contract forms.

Subpart 16.2—Forms for Negotiated Supply Contracts

44-16.202 Contracts forms.
44-16.202-50 Fixed price contracts.
44-16.202-51 Cost-reimbursement contracts.

Subpart 16.3—Purchase and Delivery Order Forms

44-16.301 Order-invoice-voucher forms.
44-16.301-2 Order for supplies or services (Standard Forms 147 and 148).

Subpart 16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect Engineer Contracts)

44-16.501 Contracts forms.
44-16-501-1 Fixed price contracts.
44-16.501-2 Cost-reimbursement contracts.

Subpart 16.7—Forms for Negotiated Architect-Engineer Contracts

44-16.701 Forms prescribed.
44-16.701-1 Cost-reimbursement contracts.

Subpart 16.8—Miscellaneous Forms

44-16.806 Contract pricing proposals.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-16.000 Scope of part.

This part precribes forms for use by FEMA procuring offices in connection with the procurement of supplies, purchase and delivery orders, nonpersonal services, and architect-engineer services and other miscellaneous forms for use in connection with the procurement of supplies and services.

Subpart 16.1—Forms for Advertised Supply Contracts

§ 44-16.101 Contract forms.

FEMA Form 40-8 shall be used for all advertised supply contracts in excess of $10,000.

Subpart 16.2—Forms for Negotiated Supply Contracts

§ 44-16.202 Contract forms.

§ 44-16.202-50 Fixed price contracts.

FEMA Form 40-8 shall be used for all negotiated fixed price supply contracts in excess of $10,000.

§ 44-16.202-51 Cost-reimbursement contracts.

FEMA Form 40-7 shall be used for all cost-reimbursement supply contracts in excess of $10,000.

Subpart 16.3—Purchase and Delivery Order Forms

§ 44-16.301 Order-invoice-voucher forms.

§ 44-16.301-2 Order for supplies or services (standard form 147 and 148).

All FEMA purchase and delivery orders shall be executed on Standard Form 147 (SF-147), "Order for Supplies or Services", and Standard Form 148 (SF-148) "Continuation Sheet".

Subpart 16.5—Forms for Advertised and Negotiated Nonpersonal Service Contracts (Other Than Construction and Architect-Engineer Contracts)

§ 44-16.501 Contract forms.

§ 44-16.501-1 Fixed Price contracts.

FEMA Form 40-11 shall be used for all advertised or negotiated fixed price contracts in excess of $10,000 for nonpersonal services other than construction, architect-engineer services and transportation.

§ 44-16.501-2 Cost-reimbursement contracts.

FEMA Form 40-10 shall be used for all cost-reimbursement contracts in excess of $10,000 for nonpersonal services other than construction, architect-engineer services or transportation.

Subpart 16.7—Forms for Negotiated Architect-Engineer Contracts

§ 44-16.701 Forms prescribed.

§ 44-16.701-1 Cost-reimbursement contracts.

FEMA Form 40-10 shall be used for all cost-reimbursement architect-engineer contracts. The form may be modified by substituting appropriate clauses from 41 CFR 1-16.

Subpart 16.8—Miscellaneous Forms

§ 44-16.806 Contract pricing proposals.

Cost or pricing data shall be submitted by contractors on Optional Form 59 if the proposed contract is for other than research and development work.

PART 44-30—CONTRACT FINANCING

Sec.

44-30.000 Scope of part.

Subpart 30.4—Advance Payments

44-30.400 Scope of subpart.
44-30.406 Responsibility—delegation of authority.
44-30.408-1 Use of letter of credit method of financing.
44-30.414-2 Contract provisions for advance payments.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Reorganization Plan No. 3 of 1978, 43 FR 41943.

§ 44-30.000 Scope of part.

This part sets forth policies and procedures concerning advance payments on prime contracts.

Subpart 30.4—Advance Payments

§ 44-30.400 Scope of subpart.

This subpart covers policies and procedures concerning authority to make advance payments and the letter of credit method of financing and sets forth clauses to be used in contract where advance payment has been authorized.

§ 44-30.406 Responsibility—delegation of authority.

The responsibility and authority for making findings and determinations with respect to advance payments and in each case for approval of contract provisions for advanced payments, or for approval of terms and conditions thereof, shall be vested in the Head of the Procuring Activity. Prior to committing FEMA to the making of an advance payment, the Head of the Procuring Activity shall obtain the advice and concurrence of the Director, Division of Budget and Finance concerning such advance payment.

§ 44-30.408-1 Use of letter of credit method of financing.

Letters of credit for contracts shall be established and administered in accordance with FEMA procedures established for all Letter of Credit transactions.

§ 44-30.414-2 Contract provisions for advance payments.

The clause set forth in 41 CFR 1-30.414-2 shall be included in all contracts for which advance funding has been authorized but for which the letter of credit method of providing advance funding is not appropriate. The clause set forth in FEMAPR 44-7.5002-12 shall be included in all contracts for which advance funding has been authorized and the letter of credit method of providing such advance funding is appropriate.

Dated: August 8, 1980.

John W. Macy, Jr.,

Director, Federal Emergency Management Agency.

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Part III

Department of Energy

Economic Regulatory Administration

Distribution of Strategic Petroleum Reserve Crude Oil

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 211 and 220

[Docket No. ERA-R-79-38]

Distribution of Strategic Petroleum Reserve Crude Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is issuing a final rule adopting a new Part 220 to implement the authority of section 161 of the Energy Policy and Conservation Act for the allocation of crude oil from the Strategic Petroleum Reserve (SPR) and the SPR Distribution Plan. The rule gives DOE discretion to distribute SPR crude oil under the current Buy/Sell Program, the Standby Crude Oil Allocation Program, or by means of allocation outside of those programs. The rule also prescribes the manner in which SPR crude oil would be priced in allocated sales.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT:
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Peter Antonelli (Office of Petroleum Operations), Economic Regulatory Administration, Room 6128, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3462.
Josette L. Maxwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7202, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3256.
Richard D. Furiga (Strategic Petroleum Reserve Office), Department of Energy, Room 400, 1726 M Street, N.W., Washington, D.C. 20461, (202) 634-5521.
Samuel M. Bradley or Sue D. Sheridan (Office of General Counsel—Petroleum Regulations), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6754.
Craig S. Bamberger (Office of General Counsel—Strategic Petroleum Reserve), Department of Energy, Room 5E-074, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-2900.

SUPPLEMENTARY INFORMATION:

I. *Background*
II. *Discussion of Major Comments*
III. *Amendments Adopted*
IV. *Procedural Matters*

I. Background

On August 17, 1979, we issued a notice of proposed rulemaking (44 FR 48696, August 20, 1979) to adopt a new Part 220 to provide a regulatory framework for the allocation of Strategic Petroleum Reserve (SPR) oil as an alternative to distributing SPR crude oil by competitive sale.[1] The proposed rule gave DOE discretion to distribute SPR crude under the current Buy/Sell Program, the Standby Crude Oil Allocation Program, or by means of a new, separate SPR allocation system set forth in the notice. In addition, the proposed rule set forth procedures for the conduct of sales of SPR crude oil which apply under each allocation alternative, and prescribed the manner in which SPR crude oil would be priced in allocated sales. For a detailed discussion of the statutory basis for the SPR, the SPR physical distribution system and the policy issues concerning dstribution of SPR crude oil, as well as the details of the proposed regulation, *see* the regulation preamble at 44 FR 48696. These matters are also discussed in the SPR Distribution Plan (Amendment No. 3 to the SPR Plan), which was transmitted to Congress on October 21, 1979 and became effective November 15, 1979, and which can be obtained from the National Technical Information Service.

II. Discussion of Major Comments

Comments on the proposed rule were requested through October 10, 1979. In addition, a hearing on the proposal was held in Washington, D.C. on September 18, 1979. Oral and written comments regarding the proposed rule were submitted by twenty-nine respondents, including major oil refiners, small oil refiners, trade associations, end user groups, two private citizens, and two government entities.

Many respondents opposed use of the current or even an amended version of the Buy/Sell program to allocate SPR crude oil. These commenters felt that any severe shortage of crude oil should be shared equitably throughout the industry, which in their view could not be achieved through use of the current Buy/Sell program since it allocates crude only to certain small refiners. In addition, some respondents felt that the six-month allocation schedule on which the current Buy/Sell program operates would prohibit timely response to a severe supply shortage. It was also suggested that since the legislation authorizing the allocation of crude oil under the Buy/Sell program expires in September 1981, it would be unwise to base the SPR distribution system on the continued existence of this program.

We can foresee particular circumstances in which use of the current small refiner Buy/Sell program might be appropriate. These might include a moderate interruption of short duration at a time when the physical ability to draw down the SPR would be limited. Thus, while we do not believe that this alternative would be appropriate in most interruption scenarios, we believe it should be retained as an option in the final rule in order to provide the flexibility to address all possible situations.

The majority of respondents supported allocation of SPR crude oil by the Standby Mandatory Crude Oil Allocation Program, primarily because it was viewed as the most equitable of the proposed allocation mechanisms, since it would distribute the effects of a reduced supply by spreading the reduction equally among all refiners. Several respondents also stressed the efficiency of using a system such as the Standby Program which is already finalized and enacted in regulatory form.

Some respondents who opposed use of the Standby Program, as well as some who generally favored its use, expressed concern about the ability of DOE and industry to meet the timing requirements under the program. Sales of SPR crude oil under the Standby Program would be subject to the requirements that sale/purchase agreements for allocated crude oil be completed within 10 days following publication of the buy/sell notice, that deliveries of allocated crude oil be completed within 30 days following the signing of sale/purchase agreements, and that allocated crude oil be processed within 60 days from the date of execution of the sale/purchase agreement. These respondents expressed doubt that the timing requirements of the program would provide sufficient time for the negotiation of sale/purchase agreements and the delivery and processing of allocated crude oil. However, others

[1] Section 161(e) of the Energy Policy and Conservation Act of 1975 (Pub. L. 94-163, EPCA) (42 U.S.C. 6231 *et. seq.*) provides that the Secretary may, by rule, provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such rules. Such price levels and allocation procedures shall be consistent with the attainment, to the maximum extent practicable, of the objectives specified in section 4(b)(1) of the EPAA.

indicated that while they believed that industry could work within the time frame set forth in the Standby Program, the Administrator could if necessary revise the current time requirements upon activating the Standby Program.

While we recognize that the timing requirements of the Standby Program may present some problems in the distribution of SPR oil under that program, we have decided not to modify these requirements at this time. However, in the course of our periodic review of the standby regulations and at the time implementation may be warranted, we will consider the need to amend the timing requirements in light of the program's possible use as a means of allocating SPR crude oil.

Several commenters responded to our proposal authorizing the Secretary to allocate SPR crude oil in a flexible manner outside the Buy/Sell or Standby Programs. While the comments reflected general approval of an alternative allocation system designed to give the Secretary flexibility in responding to a variety of shortage situations, many respondents expressed concern over the absence of any announced criteria to guide the Secretary in his decisions. Several believed that both DOE and the industry would be better prepared to handle an emergency if DOE developed a more specific plan under this third alternative. Other commenters argued that the lack of criteria in the rule increased the likelihood of legal action challenging DOE's response as inconsistent with the objectives under the EPAA. In addition, some commenters expressed the view that since the provision was so vaguely drawn, any DOE response plan under this provision might be in violation of the rulemaking requirements of the Administrative Procedure Act (APA) and Section 501 of the DOE Organization Act (DOE Act).

While we appreciate the concerns of those respondents who felt that the third allocation system proposed should in advance specify more criteria to guide the Secretary in deciding how to allocate SPR crude oil, rather than specify the criteria at the time of a drawdown, we nevertheless believe that it is essential to maximize the Secretary's flexibility in responding to a variety of shortfall situations. Since it is impossible to forecast with precision the nature of particular crude oil shortage situations, any attempt to devise a more detailed scheme to deal with in unpredictable situation would likely restrict, rather than enhance, the Secretary's ability to address the impacts of an interruption. Moreover, the allocation would be conducted pursuant to criteria specified in Notices of Sale, at the time of drawdown. Further, the final rule makes clear that actions taken under this new allocation provision must be consistent with the objectives set forth in section 4(b)(1) of the EPAA.

Finally, if a decision is made to distribute SPR crude oil under the third allocation provision, DOE could at that time comply with any procedural requirements that might be required by the APA and the DOE Act.

In connection with the new allocation provision, we specifically requested comments regarding a "buy rights" system for allocating SPR crude oil, under which "eligible refiners" would be issued rights to purchase SPR crude oil based on their runs to stills during a specified base period. Comments regarding this alternative generally were split between those who favored and those who opposed it. Those who supported this approach felt that it was an equitable means of dealing with a crude oil shortage, since "rights" would be available to all interested domestic refiners. Others who favored this approach felt that the opportunity for refiners to exchange or sell buy rights among themselves would promote efficiency in the crude oil transportation system and would assure that refiners with the capability to produce the highest valued products could, by purchasing other refiners' buy rights, acquire sufficient crude oil to satisfy demand. In this regard, it was suggested that the proposed buy rights system best approximates the free market.

On the other hand, respondents who were opposed to an allocation system based on buy rights expressed concern that such a system would exert significant upward pressure on prices. Some respondents expressed concern that a buy righs system would not necessarily allocate oil to those refiners most hard hit by a crude oil shortage, but rather to those that were strongest economically. Other commenters opposed to this system felt that it would be difficult to administer in a crisis situation and that allocation under the Standby Program would accomplish the same results with fewer complications.

In view of the considerable number of comments on the proposed "buy rights" allocation system, we are retaining it as an option available under Part 220 as originally proposed. Specifics of a satisfactory "buy right" approach would be addressed at the time of an interruption when SPR use is authorized. While there is a possibility that such an allocation system might result in higher prices and thus preclude its implementation in certain shortage situations, we can conceive of circumstances in which the incremental effect of such cost pressure on prices would be negligible in comparison with other contributing factors. In addition, any adverse distributional effects which might result from implementation of a buy rights system could be mitigated by the ongoing operation of a buy/sell program, if it was in existence at the time of an interruption. The issues involved with its use would have to be fully explored at the time an interruption occurred.

We also requested comments regarding the price rule proposed in the notice. Most respondents favored our proposal that DOE establish monthly prices for sales of SPR crude oil at approximately the average landed cost to all refiners of imported crude oil in the month of sale. There was general agreement that such a pricing system would approximate the market value for crude oil, would provide real incentives for companies to find lower priced alternative supplies, as well as inducing conservation efforts by the general public. There was also general agreement that a uniform price should be applied to all refiners regardless of size.

One commenter suggested that the price of SPR oil in allocated sales should be based on the "port of entry" cost of imported oil, rather than the average landed cost to refiners of imported oil as proposed. Since the latter includes the average domestic transportation cost from port of entry to the refinery and since buyers of SPR crude oil are responsible for the transportation costs between SPR storage sites and their refineries, if a landed cost price rule were used there would be double counting of transportation costs and the delivered cost of SPR crude oil would likely exceed the delivered cost of non-SPR allocated crude oil. The concern was expressed that this anomaly could create a disincentive to the purchase of SPR crude oil.

We have decided to adopt the proposed method of establishing prices for SPR oil for several reasons. First, ERA currently collects landed cost data on a routine basis. Adoption of a price formula based on port-of-entry costs of imported crude oil would require the development of a new data collection system by ERA, which would likely be burdensome for the industry. Moreover, ERA does not believe that pricing SPR crude oil on the basis of the average landed cost of imported crude would create a serious disincentive to its purchase. It can be expected that in

times of a supply emergency severe enough to require distribution of the SPR, prices of other oil available on the world market would likely exceed an SPR selling price based on the average landed cost of imported crude.

Several commenters argued that the proposed price rule might generate "windfall profits" for the Government, since the acquisition cost of SPR crude oil would likely be far less than the ultimate sales price. One commenter suggested that DOE use funds derived from sales of SPR crude oil for the purchase of replacement volumes of crude oil for storage in the SPR.

While it is likely that sale prices for SPR oil might exceed the acquisition cost of SPR crude oil, we believe that it would be inappropriate to sell the oil at less than current market prices. First, if SPR crude oil was sold at less than current market prices, there would be a "windfall" to purchasers of SPR supplies. In these circumstances, a complicated regulatory scheme would be necessary to ensure that the benefits of such a windfall were passed on to consumers. Further, such a price differential would be a disincentive to conservation and could create price discrepancies in the product market. Finally, any "windfall" that accrued to the Government would benefit the public to the extent that it could be used to offset the cost of operating and refilling the SPR.

Several other issues were addressed by the commenters. All respondents agreed that recipients of SPR crude oil should be refiners who had executed the Basic Sales Agreement (BSA) with DOE, although some expressed concern that completing the BSA might be difficult for small refiners not experienced with government contracts. With regard to the treatment of SPR oil under the Entitlements Program, the majority of respondents favored our proposal to treat SPR crude oil as imported or uncontrolled domestic crude oil. Moreover, most of the respondents who addressed the issue favored our proposal to permit exchanges of SPR crude oil and agreed that only quality and location differentials should be taken into account in the exchange ratio. However, some respondents urged DOE to limit the total number of exchanges which could be made, in order to minimize speculative sales which might hinder the rapid distribution of SPR crude oil. Based on the record in this proceeding, we have concluded that exchanges of SPR oil should be regulated only to the extent of requiring that the exchange ratio reflect quality and location differentials, as proposed, to ensure maximum flexibility in the distribution of SPR oil.

Although we did not indicate in the notice of proposed rulemaking any perference for distributing SPR crude oil by allocation rather than by competitive sale, the overwhelming majority of respondents favored distribution of SPR crude oil by an allocation system. Opposition to a competitive bidding system was based primarily on the fear that during a shortage, the bid price would be so high as to exclude many potential buyers from sharing in the SPR system. In addition, many respondents feared that distribution of SPR oil by competitive sale would produce upward pressure on crude prices in general, and might encourage foreign suppliers to further raise their prices. It was also suggested that competitive sales would be cumbersome and difficult to implement in time to respond to a major crude oil shortage.

III. Amendments Adopted

For the reasons discussed above, we are adopting substantially as proposed a new Part 220 to establish a regulatory framework for the allocation and pricing of SPR crude oil in the event that the Secretary decides to distribute SPR crude oil by allocation rather than by competitive sale. Part 220 consists of three major Subparts, setting forth (i) the method of allocation, (ii) procedures for the sale of SPR crude oil, and (iii) a price rule. In addition, we are adopting as proposed the conforming amendments to the Buy/Sell Propram and the Standby Allocation Program.[2]

In general, Part 220 provides DOE three alternative methods of allocating SPR crude oil in a manner consistent with the objectives of section 4(b)(1) of EPAA. First, the Secretary could allocate SPR crude oil in such amounts as he determines appropriate to small refiners under the current Buy/Sell Program. Second, the Secretary could allocate SPR crude oil under the Standby Allocation Program. Third, the rule provides that the Secretary may allocate SPR crude oil under a separate allocation system as established in Part 220.

The rule also establishes a three-step procedure for the conduct of sales of SPR crude oil which applies to each of the allocation alternatives set forth in Part 220. First, in order to be eligible to purchase SPR crude oil, refiners must accept a Basic Sales Agreement (BSA) setting forth the basic provisions of an SPR sales contract. The second step involves the issuance of a Notice of Sale (NS) to eligible refiners following a decision to draw down the SPR. The NS will specify the quantity and quality of SPR crude oil to be sold, the prices and other terms and conditions of sale, as well as the criteria to be employed in evaluating offers by eligible refiners. The class of "eligible refiners" will depend on the allocation option which the Secretary adopts. If appropriate, a third step in conducting sales of SPR crude oil would be the evaluation of offers and awarding of contracts by DOE on the basis of the selection criteria announced in the NS.

Finally, the pricing provision of the rule permits DOE to establish on a monthly basis the prices, along with appropriate gravity and sulfur differentials, for allocated sales of high and low sulfur SPR crude oil. In determining the prices, DOE will consider the weighted average per barrel landed cost to all refiners of imported high and low sulfur crude oil in the month of sale, prices between affiliated entities and other relevant data. DOE anticipates that the price of SPR crude oil in allocated sales would be set at approximately the average landed cost to all refiners of imported crude oil in the month of sale. However, under the final rule DOE retains the discretion to charge a higher or lower price so long as the price charged is not significantly higher or lower than the highest or lowest prices, respectively, in comparable sales of non-SPR allocated crude oil (for example, Buy/Sell Program sales) in the month.

IV. Procedural Matters

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 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

[2] For an extensive discussion of Part 220 and conforming amendments to Part 221, *see* Notice of Proposed Rulemaking at 44 FR 48696, August 24, 1979.

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 a draft of the proposed rule, the EPA Administrator expressed concern that the proposed rule contemplated a greater number of drawdowns of the SPR than had been described in earlier programmatic and site-specific Environmental Impact Statements (EIS) on the SPR. The Administrator advised us that, if this presumption was correct, it might be necessary for DOE to revise the original EIS's for the SPR program to reflect the change.

Recently, we advised EPA that the fact that the regulation does not address the number of times that drawdown may be implemented should not be interpreted as an indication of any change in the assumptions upon which the Department of Energy prepared its Programmatic and site-specific EIS's for the SPR. Specifically, DOE has reviewed the original assumption that the program will undergo five fill and drawdown cycles during its life and concluded that the assumption remains valid. Therefore, DOE has determined that the publication of this final regulation is not a major federal action requiring amendment of the SPR's Final EIS.

In a letter dated May 19, 1980, EPA indicated that our assurance that the original assumptions underlying the SPR EIS's remain valid satisfactorily addresses its concerns. However, EPA noted that if at any future time DOE contemplates more frequent use of the SPR, then further review of the program under the National Environmental Policy Act (NEPA, 42 U.S.C. 4321 *et seq.*) would be indicated.

C. National Environmental Policy Act

For the reasons noted above, it has been determined that an environmental assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

D. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to prepare a regulatory analysis for those significant regulations that may have a major economic impact. Section 3(a) of the Executive Order directs the agencies to establish criteria to identify which regulations require regulatory analyses. DOE's implementing procedures are contained in DOE Order 2030.1 (44 FR 1032, January 3, 1979). In the Notice of Proposed Rulemaking we stated that we had determined that the criteria for the preparation of a regulatory analysis were not met by the proposed amendments. Specifically, since the rules adopted today are simply a regulatory mechanism to facilitate the distribution of SPR oil, we do not believe the regulations themselves are likely to impose significant economic costs. In this regard, since the regulations provide that SPR oil will be priced at roughly the average landed cost of imported oil to all refiners, sales of SPR oil under the allocation regulations should not result in appreciable increases in costs or prices for crude oil or petroleum products.

(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 are amending Part 211 and adding a new Part 220 to Chapter II, Title 10 of the Code of Federal Regulation as set forth below.

Issued in Washington, D.C., August 12, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

§ 211.62 [Amended]

1. Section 211.62 is amended by revising the definition of "Refiner-seller" and by adding the definitions of "Strategic Petroleum Reserve" and "SPR crude oil" in proper alphabetical order to read as follows:

* * * * *

"Refiner-seller" means a refiner which is not a small refiner or independent refiner as defined in this section; *provided, that* a refiner which is not a small refiner or an independent refiner, and all of the refining capacity of which has been constructed after January 1, 1974, shall not be classified as a refiner-seller; and *provided further, that,* for the allocation period commencing October 1, 1977, the refiners considered to be refiner-sellers for purposes of § 211.65 of this subpart shall include only those firms classified as refiner-sellers in the allocation quarter commencing June 1, 1977. Refiner-seller shall also mean the United States Government when SPR crude oil is allocated pursuant to § 211.65 of this subpart; *except that,* unless expressly provided, the provisions of § 211.65(e)–(j) shall not apply to the United States Government.

* * * * *

"Strategic Petroleum Reserve (SPR)" means the program for the storage of crude oil and/or petroleum products authorized by Title I, Part B of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. section 6231 *et seq.*

"SPR crude oil" means crude oil stored in or acquired for storage in the SPR, or for the distribution thereof. For the purposes of this subpart, such crude oil shall be considered as imported crude oil.

§ 211.65 [Amended]

2. Section 211.65 is amended by adding a new paragraph (k) to read as follows:

* * * * *

(k) *Special provisions for allocation of Strategic Petroleum Reserve crude oil.* (1) *General.* This paragraph applies to the allocation of such amounts of SPR crude oil as the Secretary of Energy determines pursuant to Part 220 of this chapter shall be allocated under this section. Except as expressly provided in this paragraph (k), the provisions of paragraphs (a) through (j) of this section shall not apply to the allocation of such crude oil.

(2) *Notice of availability of SPR crude oil.*

(i) ERA shall announce the availability of SPR crude oil for distribution under this section for a particular allocation period in the buy/sell notice specified in paragraph (g)(1) of this section or, if the SPR crude oil is not available until after the beginning of an allocation period, in a supplemental buy/sell notice. The buy/sell notice shall set forth to the maximum extent practicable information concerning the quantity, quality and delivery points of SPR crude oil available for sale under this section for the allocation period; any maximum or minimum volume restrictions; and any delivery and/or transportation restrictions.

(ii) Any refiner-buyer desiring to purchase SPR crude oil under this section in an allocation period must submit to DOE an offer in accordance with the procedures set forth in Subpart C of Part 220 of this chapter. To the extent practicable, DOE shall award contracts for the purchase of SPR crude oil under this section prior to the beginning of an allocation period.

(3) *Adjustments to refiner-sellers' sales obligations, purchase opportunities and allocations.* (i) For the purpose of the calculations of the sales

obligation for each refiner-seller for a particular allocation period, the total allocation obligation specified in paragraph (e) of this section and the total sales obligation specified in paragraph (f)(1) of this section shall be reduced by the total volume of SPR crude oil allocated under this section in that allocation period.

(ii) If during any allocation period DOE sells SPR crude oil to any refiner-buyer in a manner other than pursuant to the provisions of this section, ERA shall issue a supplemental buy/sell notice that (A) reduces the purchase opportunity or allocation of each such refiner by the volume of SPR crude oil purchased by each such refiner and (B) reduces the sales obligation for each refiner-seller in the manner prescribed in subclause (i) of this subdivision.

(4) *Permitted exchanges and sales of SPR crude oil.* (i) No volumes of SPR crude oil allocated under this section shall be sold or otherwise disposed of by refiner-buyers except pursuant to (A) crude oil exchanges in which only quality and location differentials are given effect in the calculation of the exchange ratio or (B) matching purchase and sale transactions which have the same effect as an exchange described in clause (A); *provided, that,* the volume of non-SPR crude oil received by a refiner-buyer pursuant to such transactions shall be processed in such refiner's refinery.

(ii) SPR crude oil allocated under this section must be processed by the ultimate recipient of the SPR crude oil within forty-five (45) days following the close of the allocation period for which that crude oil was allocated; *provided, that,* if SPR crude oil is purchased from the Government in the last month of the allocation period, it must be processed within sixty (60) days following the close of the allocation period.

(iii) Within forty-eight hours of the completion of the arrangements therefor, each exchange transaction involving SPR crude oil shall be reported to ERA in writing or by telex by all parties to the exchange. This report shall identify the exchange partners, the refineries to which the SPR crude oil and the non-SPR crude oil is to be delivered, and the period over which the delivery is expected to take place.

(5) *Procedures for sale of SPR crude oil.* (i) Sales of SPR crude oil pursuant to this section shall be conducted in accordance with the procedures set forth in Subpart C of Part 220 of this chapter.

(ii) The refiner-buyer shall be responsible for the transportation, including the cost thereof, of SPR crude oil from the delivery points to its refinery.

(iii) SPR crude oil sold pursuant to this section shall be priced in accordance with the provisions of § 220.32 of this chapter.

3. Section 211.66 is amended by revising subclause (vi) of paragraph (d) and subparagraph (5) of paragraph (h) to read as follows:

§ 211.66 Reporting requirements.

* * * * *

(d) *Refiner-buyers' semiannual report.* * * *

* * * * *

(vi) Purchases of allocated crude oil for each eligible refinery, separately stating the volumes of SPR crude oil purchased from the Government.

* * * * *

(h) *Monthly report.* * * *

* * * * *

(5) The weighted average costs for that refiner (including transportation costs to the refinery) of old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), SPR crude oil purchased from the Government, other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, and imported crude oil included in that refiner's crude oil receipts. For refiners required to file transfer pricing report forms under § 212.84 of this chapter, the weighted average cost of imported crude oil reported under this subparagraph should be derived from the landed costs set forth in such reports.

* * * * *

Appendix A [Amended]

4. Standby Regulation 211–1 in Appendix A, Part 211, is amended—

a. in paragraph 1, by revising the second sentence;

b. in paragraph 4, by revising the definitions of "Estimated crude oil runs to stills," "National estimated crude oil runs to stills" and "seller"; and

c. in paragraph 5, by revising § 211.65(a)(4)(ii); by adding a new subparagraph (3) to § 211.65(b); by revising § 211.65(g)(1); by revising § 211.65(h)(5); and by adding new subparagraphs (7) and (8) to § 211.65(h);

d. in paragraphs 1–8, by changing (i) all references to "special rule" to "Standby Regulation" and (ii) all references to "Part 212, Subpart L, Special Rule No. 1" to "Standby Regulation 212–1, Appendix A, Part 212";

to read as follows:

Appendix A to Part 211—Standby Regulations

Standby Regulation 211–1

Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs

1. *Scope.* This Standby Regulation 211–1 sets forth the DOE Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs. This Standby Regulation also provides for the distribution of such amounts of SPR crude oil as the Secretary of Energy determines pursuant to Part 220 of this chapter shall be distributed under the Standby Regulation.

* * * * *

4. * * *

* * * * *

"Estimated crude oil runs to stills" means the volume of crude oil a refiner estimates it will run to stills for its own account during an allocation period for all of its refineries, the volume of crude oil to be processed for nonrefiners, the volume of crude oil to be processed for the refiner's account by other refiners, and, if SPR crude oil is distributed in a manner other than pursuant to this Standby Regulation, the volume of SPR crude oil purchased from, or received through exchange with, the Government. A refiner's estimated runs to stills shall be based on the volume of its total crude oil supply (as defined in paragraph 4 of this Standby Regulation) that could be processed in its refineries or for its account by other refiners in the particular allocation period, excluding crude oil purchased or to be purchased under this Standby Regulation. If the exemption in paragraph 3(a) of this Standby Regulation is applicable, "estimated crude oil runs to stills" shall not include the quantity of crude oil a refiner-seller estimates it will be required to sell to refiner-buyers pursuant to § 211.65 during the allocation period.

* * * * *

"National estimated crude oil runs to stills" means, for any allocation period, the total of the estimated crude oil runs to stills for all U.S. refiners, plus the volume of SPR crude oil to be allocated under this Standby Regulation, minus the quantity of crude oil directed to all refiners pursuant to § 211.65(d)(2) or § 211.71(d) of this Standby Regulation.

* * * * *

"Seller" means any refiner whose estimated crude oil runs to stills during the allocation period is greater than the national utilization rate multiplied by that refiner's base period average monthly crude oil runs to stills, including the United States Government when SPR crude oil is allocated pursuant to this Standby Regulation. Except as expressly provided, the provisions of paragraphs (a) and (c)–(j) of § 211.65 in paragraph 5 of this Standby Regulation shall not apply to the U.S. Government.

* * * * *

5. *Method of Allocation.*

* * * * *

§ 211.65 Mandatory Crude Oil Allocation Program.

(a) *General Rule.*

* * * * *

(4) *Calculation Procedure.*

* * * * *

(ii) For each allocation period, the ERA shall compute the national estimated crude oil runs to stills, which shall equal the total estimated crude oil runs to stills for all U.S. refiners for that allocation period, plus the quantity, if any, of SPR crude oil allocated under this Standby Regulation, minus the quantity of crude oil directed to all refiners pursuant to § 211.65(d)(2) or § 211.71(d) of this Standby Regulation.

* * * * *

(b) *Buyers.* * * *

* * * * *

(3) Any buyer desiring to purchase SPR crude oil under this section in an allocation period must submit to DOE an offer in accordance with the procedures set forth in Subpart C of Part 220 of this chapter.

* * * * *

(g) *Buy/Sell Notice and Negotiation of Transactions.*

(1) Except for the first allocation period, a buy/sell notice shall be published at least 10 days prior to the beginning of the allocation period. Except when the exemption in paragraph 3(a) of this Standby Regulation is applicable, each buy/sell notice shall contain two lists. One list shall set forth the quantity of crude oil each buyer whose DOE certified crude oil refining capacity is 50,000 barrels per day or less is eligible to purchase and the quantity of crude oil that each seller shall be obligated to offer for sale to such buyers. The other list shall set forth the quantity of crude oil each buyer whose DOE certified crude oil refining capacity exceeds 50,000 barrels per day is eligible to purchase and the quantity of crude oil that each seller shall be obligated to offer for sale to such buyers (less the obligations shown on the first list). If SPR crude oil is distributed under this section for an allocation period, the buy/sell notice shall set forth to the maximum extent practicable information concerning the quantity, quality and delivery points of the SPR crude available for sale; any maximum or minimum volume restrictions; and any delivery and/or transportation restrictions.

(h) *Terms and Conditions of Sales.*

* * * * *

(5) All crude oil except SPR crude oil sold pursuant to this section shall be priced in accordance with the provisions in Part 212, Appendix A, Standby Regulation 212–1. SPR crude oil shall be priced in accordance with the provisions of § 220.32 of this chapter.

* * * * *

(7) Sales of SPR crude oil pursuant to this Standby Regulation shall be conducted in accordance with the procedures set forth in Subpart C of Part 220 of this chapter.

(8) The buyer shall be responsible for the transportation, including the cost thereof, of SPR crude oil from the delivery points specified by DOE to its refinery.

* * * * *

5. Part 220 is aded to Title 10, Chapter II of the Code of Federal Regulations, to read as follows:

PART 220—STRATEGIC PETROLEUM RESERVE CRUDE OIL ALLOCATION

Subpart A—General Provisions

Sec.
220.1 Purpose and scope.
220.2 Definitions.

Subpart B—Method of Allocation

220.10 Rule.

Subpart C—Procedures for Sales of SPR Crude Oil

220.20 Basic sales agreement.
220.21 Notice of sale.
220.22 Contract awards.

Subpart D—Price Rule

220.30 Applicability.
220.31 Definitions.
220.32 Rule.

Authority: 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.

Subpart A—General Provisions

§ 220.1 Purpose and scope.

(a) This part implements section 161(e) of the Energy Policy and Conservation Act (Pub. L. 94–163) (42 U.S.C. § 6231), as amended, which authorizes the Secretary of Energy to provide for the allocation of any petroleum product withdrawn from the Strategic Petroleum Reserve.

(b) *Applicability.* This part applies to any allocation of SPR crude oil, other than distribution by price competition, whether or not conducted pursuant to § 211.65 of this chapter (Buy/Sell Program), Standby Regulation 211–1, Appendix A, Part 211, (Standby Mandatory Crude Oil Allocation and Refinery Yield Control Programs), or this part.

§ 220.2 Definitions.

"Basic Sales Agreement" means a document issued by DOE containing many of the terms and conditions of any contract which may be awarded for the purchase of SPR crude oil from the Government.

"DOE" means the Department of Energy established by the Department of Energy Organization Act (Pub. L. 95–91), and includes the Secretary of DOE or his delegate.

"Notice of Sale" means the document (other than the buy/sell notice specified in § 211.65(g) of this chapter) issued by DOE announcing the sale of SPR crude oil. The Notice of Sale will specify the method of sale, eligibility to purchase, prices, applicable terminalling, handling and transportation charges, the crude oil types and quantities available for purchase, the sales period, delivery location(s), minimum and maximum volume restrictions, place and date for submission of offers, modes of transportation applicable for each delivery point (i.e., pipeline, barge, tanker and applicable port data/restrictions), special terms and conditions of sale, and the criteria to be employed in evaluating offers to purchase.

"Strategic Petroleum Reserve (SPR)" means the program for the storage of crude oil and/or petroleum products authorized by Title I, Part B of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. section 6231 *et seq.*

"SPR crude oil" means crude oil stored in or acquired for storage in the SPR, or for the distribution thereof. For the purposes of Subpart C, Part 211 of this chapter, such crude oil shall be considered as imported crude oil.

Subpart B—Method of Allocation

§ 220.10 Rule.

(a) Upon a determination by the President that implementation of the Distribution Plan contained in the Strategic Petroleum Reserve Plan is required by a severe energy supply interruption or by obligations of the United States under the international energy program, the Secretary may allocate, in a manner consistent with the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, in such amounts as he shall determine: (1) pursuant to the provisions of § 211.65 (Buy/Sell Program) of this chapter, (2) pursuant to the provisions of Standby Regulation 211–1, Appendix A,

Part 211 (Standby Mandatory Allocation and Refinery Yield Control Programs) of this chapter, or (3) to any refiner, in accordance with criteria announced in a Notice of Sale.

(b) No volumes of SPR crude oil sold to any firm pursuant to paragraph (a)(3) of this section shall be sold or otherwise disposed of by such firm except pursuant to (A) crude oil exchanges in which only quality and location differentials are given effect in the calculation of the exchange ratio or (B) matching purchase and sale transactions which have the same effect as an exchange described in clause (A).

Subpart C—Procedures for Sale of SPR Crude Oil

§ 220.20 Basic Sales Agreement.

SPR crude oil will be sold only to refiners which have executed a Basic Sales Agreement by the deadlines announced in the Notice of Sale for submission of offers.

§ 220.21 Notice of sale.

SPR crude oil sales will be announced in a Notice of Sale.

§ 220.22 Contract awards.

Recipients of SPR crude oil will be selected from among those refiners offering to buy SPR crude oil, on the basis of the criteria announced in the Notice of Sale. The basis for the selection of recipients thereafter will be documented.

Subpart D—Price Rule

§ 220.30 Applicability.

The price rule stated in this subpart shall apply to any sale of SPR crude oil pursuant to the provisions of § 211.65 of this chapter, Standby Regulation 211–1, Appendix A, Part 211 of this chapter, or this part.

§ 220.31 Definitions.

For purposes of this subpart—

"High sulfur crude oil" means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.6% (six-tenths of one percent) by weight.

"Imported crude oil" means crude oil brought into the United States from a foreign country for consumption within the United States, but excluding crude oil stored in, or owned and controlled by the United States Government in connection with the SPR.

"United States" means the several states, the District of Columbia, Puerto Rico and the territories and possessions of the United States.

§ 220.32 Rule.

(a) DOE shall establish the price at which low sulfur SPR crude oil and high sulfur SPR crude oil shall be sold, plus any gravity, and sulfur content adjustments as specified in paragraphs (b) and (c), respectively, of this section. The sale prices of SPR crude oils shall not be significantly higher or significantly lower than the highest and lowest prices, respectively, in comparable sales of allocated crude oil in the month of sale. In determining the prices of SPR crude oils, the DOE shall consider (1) the weighted average per barrel landed cost (as defined in § 212.82) for all low sulfur crude oil and for high sulfur imported crude oil delivered to all U.S. refiners in the month of sale; (2) the data on the Transfer Pricing Report ERA–51 (or any successor to this form), wherein refiners report crude oil prices obtained in transactions between affiliated entities and in transactions between non-affiliated entities pursuant to 10 CFR 212.84; and (3) other data that the DOE considers to be appropriate for price determination purposes.

(b) a price adjustment shall be made for gravity differentials of SPR crude oil offered for sale by adding to or subtracting from the price determined under paragraph (a) of this section an amount per barrel fixed monthly by the DOE for each degree API that the crude oil being offered for sale is above or below, respectively, the weighted average degree API of the reference crude oil of the same sulfur content category, established monthly by the DOE.

(c) a further price adjustment shall be made for sulfur content differentials of SPR crude oil offered for sale by adding to or subtracting from the price determined under paragraph (a) of this section an amount per barrel fixed monthly by the DOE for each one tenth of one percent that the sulfur content by weight of the SPR crude oil being offered for sale is either below or above, respectively, the percentage representing the sulfur content of the reference crude oil of the same sulfur content category established monthly by the DOE.

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Tuesday
August 19, 1980

Part IV

Department of Health and Human Services

Office of Human Development Services

Social Services Programs for Individuals and Families (Title XX); Disclosure by Providers of Certain Ownership Interests and Other Information

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 228

Social Services Programs for Individuals and Families: Title XX of the Social Security Act; Disclosure by Providers of Certain Ownership Interests and Other Information

AGENCY: Office of Human Development Services (HDS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Office of Human Development Services is amending its final regulations published July 17, 1979, at 44 FR 41646. Those regulations among other things, require private providers of medical or remedial care and health-related homemaker services under Title XX of the Social Security Act to disclose the names of persons with an ownership or control interest. These amendments are being made to clarify the effective date statement due to unnecessary inconsistencies between those States whose program year begins July 1, and those that begin on October 1. Two technical changes and two editorial changes are also being made.

EFFECTIVE DATE: These regulations continue to be effective on July 17, 1979 with the following specific clarification:

(1) Contracts signed on or before July 17, 1979 need not meet the requirements in 45 CFR 228.72 and 228.73 until the time the contract is renewed;

(2) Contracts signed between July 18, 1979 and December 31, 1979 must meet the requirements of § 228.72 and § 228.73 by December 31, 1979; and

(3) Contracts signed after December 31, 1979 must meet the requirements of §§ 228.72 and 228.73 prior to the approval of the contract.

Although this is a final rule, comments will be accepted and any changes found necessary will be made. Consideration will be given to written coments or suggestions received on or before September 18, 1980. Agencies and organizations are requested to submit their comments in duplicate.

ADDRESS: Address comments to: Acting Director, Division of Policy Coordination, Office of Policy Development, Department of Human Services, Washington, D.C. 20201. Comments will be available for public inspection beginning approximately two weeks after publication, in room 722–E of the Department's offices at 200 Independence Avenue SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202–472–4415).

FOR FURTHER INFORMATION CONTACT: Mrs. Johnnie U. Brooks, Room 722–E, HHH Building, Department of HHS, 200 Independence Avenue SW., Washington, D.C. 20201, (202) 472–4415.

SUPPLEMENTARY INFORMATION:

Effective Date

These regulations continue to be effective July 17, 1979. However, we have provided clarification. The most critical clarification is that irrespective of a State's program year, the State has until December 31, 1979 to obtain the required information from providers with whom they enter into a contract after July 17, 1979 and prior to December 31, 1979.

This clarification is needed because the language in the current effective date statement produced unnecessary inconsistencies between those States whose program year began July 1 and those whose program year began October 1. The current effective date statement requires that all contracts signed after July 17, 1979 must meet these disclosure requirements, except that States whose program year begins July 1, have an additional 90 days to secure the required information. Since the reporting forms were not available from the Department until late September, we believe it is unreasonable to expect States to meet the current deadline.

Technical Changes

The first technical change made is in § 228.40(d). We have deleted the specific reference to paragraph (d) of § 228.72, thus requiring the provider to comply with § 228.72 in its entirety. As this is a current requirement, no policy change is intended.

The second technical change corrects the definition of provider. "Provider" is currently defined as "a private non-profit or for-profit non-governmental party (other than an individual practitioner or group of practitioners) which is under contract with the State or local agency *or* under subcontract with a public or private agency to deliver medical or remedial care or health-related services funded under title XX." The last phrase beginning "or under subcontract with a public or private agency * * *" was added to the final regulation in response to the question: Did the requirements of § 228.72 apply to private subcontractors of public agencies? (See Preamble 44 FR 41647.)

The answer given was yes, and the above phrase was added to the definition of provider as a way to assure reporting from these subcontractors.

Questions have been raised however about how this definition is to be applied. For example, are State title XX agencies required to contact subcontractors of public agencies and obtain the required information? Are subcontractors of either public or private agencies then responsible for obtaining disclosure information from their subcontractors?

On further analysis, we have concluded that this provision goes beyond the statute and was not intended to do so. A subcontractor is clearly defined in § 228.72(a)(12) and the circumstances under which the subcontractor is required to disclose information is also clearly stated in § 228.72(b) and (d).

Our analysis is as follows: As required by the statute, "disclosing entities" must provide information to the appropriate State agency(s). In the title XX program, disclosing entities for the purpose of § 228.72 are defined as *private* providers of:

(a) Medical or remedial care, and/or

(b) Health-related homemaker services. (See discussion of how this definition was determined in the NPRM 43 FR 34719.)

These disclosing entities (private providers) must report information regarding ownership and control interests and business transactions for themselves and certain subcontractors specified in the statute.

Thus, private subcontractors of private agencies are clearly included and must provide the required information. Private subcontractors of public agencies are not included because a public agency is not a disclosing entity for the purpose of § 228.72. For example, there is no way that a public agency can meet the requirement to report the "name and address of persons who have an ownership or control interest in the public agency and in certain subcontractors of the public agency."

In addition, two editorial corrections are made in § 228.72(a)(11) and in § 228.72(a)(12).

(Sec. 1102, 1124, and 1126, Social Security Act (42 U.S.C. 1302, 1320a–3 and 1320a–5))

(Catalog of Federal Domestic Assistance Program No. 13.642, Social Services for Low Income and Public Assistance Recipients.)

Note.— It has been determined that this document does not require Preparation of a Regulatory Analysis under Executive Order 12044.

Dated: March 7, 1980.

Cesar A. Perales,

Acting Assistant Secretary for Human Development Services.

Approved: August 7, 1980.

Patricia Roberts Harris,

Secretary.

45 CFR Part 228 is revised as follows:

1. Section 228.40(d) is revised by removing the specific reference to § 228.72(d) as follows:

§ 228.40 Minor medical and remedial care.

* * * * *

(d) FFP is not available for medical or remedial care or health-related homemaker services purchased from a private provider for any period during which the provider fails to comply with § 228.72 that requires disclosure about ownership, control interests, and certain information about past business transactions.

2. Section 228.72(a)(10) is amended as follows:

§ 228.72 Disclosure of information about ownership and business transactions.

(a) * * *

(10) *Provider* means a private non-profit or for-profit nongovernmental party (other than an individual practitioner or group of practitioners) which is under contract with the State or local agency to deliver services funded under title XX.

* * * * *

§ 228.72 [Amended]

3. Section 228.72(a)(11) is revised by substituting the word "or" for the word "and" as follows:

(a) * * *

(11) *Significant business transaction* means any business transaction or series of transactions which, during any one fiscal year, exceeds the lesser of either $25,000 or 5 percent of the total operating expenses of the provider.

* * * * *

§ 228.72 [Amended]

4. Section 228.72(a)(12) adds a comma after the word "individual" as follows:

(a) * * *

(12) *Subcontractor* means an individual, agency, or organization which by contract:

* * * * *

[FR Doc. 80-25133 Filed 8-18-80; 8:45 am]

BILLING CODE 4110-92-M

federal register

Tuesday
August 19, 1980

Part V

Environmental Protection Agency

Hazardous Waste Management System

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122-124 and 260-265

[FRL-1574-4]

Hazardous Waste Management System; Intent to Issue Amendments to Interpretations of and Answers to Questions on Final Regulations

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of intent to issue amendments to, interpretations of and answers to questions on final regulations.

SUMMARY: The Environmental Protection Agency (EPA) intends to begin issuing amendments to, interpretations of and answers to questions on its February 26, and May 19, 1980, hazardous waste regulations within the next several weeks. These were promised by EPA in the preamble to its May 19th regulations (see 45 FR 33089) and in the subsequent public meetings on the new hazardous waste regulations. Because of the complexity and breadth of the Resource Conservation and Recovery Act of 1976 (RCRA) subtitle C regulations, it is important for EPA to systematically provide the regulated community and interested public with clarifications and additional details regarding the coverage of the regulations.

ADDRESSES: Requests for the issuance of amendments and interpretive memoranda should be sent to Filomena Chau, whose address appears below. Requests for EPA's question-and-answer book and copies of amendments or interpretive memoranda should be sent to Edward Cox, Solid Waste Information, U.S. Environmental Protection Agency, 26 W. Saint Clair Street, Cincinnati, Ohio 45268, (513) 684-5362.

FOR FURTHER INFORMATION CONTACT: Filomena Chau, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-9173.

SUPPLEMENTARY INFORMATION:

I. Introduction

On February 26, and May 19, 1980, EPA published its initial regulations implementing sections 3001 through 3006 and 3010 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended; see 45 FR 12722, 12746 and 33066. These regulations represent the first step in the development of a comprehensive Federal and State regulatory program to control the transportation, treatment, storage and disposal of hazardous waste.

Since their promulgation, the Agency has received thousands of questions from the regulated community and the States concerning the applicability of these regulations. In the majority of cases, the questions can be answered by a careful reading of the regulations. In others, the answers either do not appear in the regulations or are not clear.

To date, EPA has been responding to individual questions orally. Recognizing that this is not an effective way of communicating interpretations of the regulations to the public, the Agency has devised the following approach for dealing with the many issues which have been raised regarding these regulations.

A. Questions Which Can Be Answered by A Careful Reading of the Regulations

Many questions have been raised which could have been answered by a careful reading of the regulations or accompanying preamble. Because the Agency believes that those raising such questions either have not had an opportunity to read the regulations and preambles thoroughly or simply wish to confirm their own reading of the regulations, EPA does not feel it is necessary to issue specific written responses to them. However, the Agency will make available to the public during September 1980, upon request, a question-and-answer document which addresses many of questions in this category. EPA hopes that this document will assist persons reading the regulations for the first time to understand some of the more basic requirements of the hazardous waste program. Requests for this document should be sent to Edward Cox, whose address appears above.

B. Questions Which the Regulations Do Not Answer or Do Not Answer Clearly

In promulgating its February 26, and May 19, 1980, regulations, EPA recognized that it would probably not be able to adequately address *every* hazardous waste management situation, due to the large number of individual transportation, treatment, storage, and disposal situations to be addressed. To appropriately address these classes of situations, EPA sought comment on those sections of the regulations which it thought might require some additional refinement (*see* 45 FR 33084 and 33154). The Agency also requested the public to advise it of situations in which a literal application of the regulations would lead to an inappropriate result (45 FR 33088-33089). Finally, three public meetings were held to answer questions about the regulations (45 FR 33084).

EPA intends to initiate rulemaking to expand, correct or clarify the regulations as appropriate for these situations. Many of these changes will be promulgated in the **Federal Register** as technical amendments, with explanation, but without opportunity for public comment. Others will be published in interim final form or proposed, as appropriate.

It will not be possible for EPA to respond to all these issues immediately, due to their complexity. Also, the Agency must complete several other major priority tasks in the next six months. Such tasks include reviewing State hazardous waste programs for interim authorization, finalizing the interim final portions of the May 19, 1980, regulations and proposals, and developing permitting standards for hazardous waste management facilities. Therefore, EPA will deal first with issues which identify those persons subject to the regulations and those facilities which can qualify for interim status. Those issues the Agency intends to address in the next several weeks are outlined in section II, below.

C. Questions for Which Interpretive Guidance Would be Helpful

Questions have been raised whose answers require a fairly sophisticated understanding of the regulations. For this category of questions, EPA intends to begin issuing interpretive memoranda to explain how the regulations will apply in particular situations. These interpretive memoranda will be referred to as Regulatory Interpretation Memoranda (RIMs).

RIMs will be issued by EPA's Deputy Assistant Administrator for Solid Waste, with the concurrence of its Deputy Assistant Administrator for Water Enforcement and Associate General Counsel for Water & Solid Waste. Each memorandum will be assigned a three-part number. The first part will correspond to the CFR Part it interprets ("260" will be used for memoranda which address several regulations or general issues). The second part will identify the calendar year in which it is issued. The third part will reflect the sequential order in which the memorandum is issued (*e.g.*, RIM 260-80-01). Each RIM will be published in the **Federal Register**, will be available at EPA Regional Offices and State agencies regulating hazardous waste management, and will be mailed to individuals on request. All such requests should be sent to Edward Cox, whose address appears above and should specify whether the requestor wishes (1)

to obtain a specific memorandum (identified, for instance, as, "RIM 260–80–01") or (2) to be placed on a mailing list to receive all memoranda in a particular series (identified, for instance as, "RIM Series 262 and 123" memoranda).

For the reasons stated in Section I.B., EPA will not be able to issue interpretive memoranda responding to all the questions in this category immediately, but will set priorities along the lines outlined above. Issues which the Agency intends to address in the next several months are outlined below.

II. Issues to be Addressed in August, September, and October 1980

EPA is currently developing RIMs or amendments to the regulations on the following issues.

1. *When is a hazardous waste first subject to regulation?* Many hazardous wastes are created in pipes, tanks or closed vessels, which are an integral part of a manufacturing, product storage, or waste treatment process. Examples are: sludges formed in raw material or product storage tanks (such as petroleum storage tanks, distillation residues created in distillation units) and sludges formed in treatment facilities where the wastewater itself is not a hazardous waste. We expect to be issuing an amendment to Part 261 in August which will clarify when these wastes become subject to regulation under Subtitle C.

2. *Clarification of the definition of "totally enclosed treatment facility."* A large number of questions have been asked about this definition, which appears in § 260.10(a)(70). Most of these questions relate to the definition of the term "totally enclosed" from an engineering standpoint (*e.g., does the term cover a vented tank, a tank in a building or a tank with a floating cover). We will address these in a RIM or an amendment to the regulations to be published in August.*

3. *Application of regulation to certain neutralization processes.* Several questions have been raised about application of the regulations to the neutralization of process wastes that are hazardous only because they exhibit the characteristic of corrosivity, and where the neutralization treatment is an integral part of the manufacturing process. We hope to publish an amendment on this matter in August.

4. *Clarification of the exclusion for wastes generated in the combustion of coal and other fossil fuels and in the exploration, development and production of crude oil, natural gas or geothermal energy.* We anticipate issuing a RIM to clarify the scope of these exclusions in August.

5. *Clarification of the application of regulations to surface coal mining wastes.* There is an inconsistency between the preamble to EPA's Section 3004 regulations and the regulations themselves concerning the applicability of the regulations to coal mining wastes which are regulated under the Surface Mining Control and Reclamation Act. We hope to clarify this issue during August.

6. *Clarification of small generator special requirements.*

A large number of questions have been raised regarding the requirements in § 261.5 for hazardous wastes generated by small quantity generators. We hope to publish a RIM and regulatory amendment dealing with these questions in August.

7. *Clarification of the regulation of commerical products listed under § 261.33.* Many questions have been raised about when the commercial products listed in § 261.33 become "wastes." The most frequent question is whether manufacturing wastes that contain the chemicals listed in § 261.33 are hazardous wastes. Other questions relate to the regulation of commercial products that are used, re-used, recycled or reclaimed. We intend to address these and other questions in a RIM to be published in August.

8. *Clarification of the term "sometimes discarded" in the definition of solid wastes which are by-products in § 261.2(b)(3).* Many persons have asked the meaning of this term and asked how they can show that their by-product is never discarded and therefore is not a solid waste. We hope to publish a RIM or amendment addressing this issue in August.

9. *Application of the regulation to inactive facilities.* EPA's regulations do not apply to "inactive" facilities. Questions have been raised as to whether this exclusion includes inactive storage facilities and whether the regulations apply if inactive facilities are reactivated. We hope to publish a RIM or an amendment to the regulations dealing with these questions in late September.

10. *Application of the regulations to NPDES and pretreatment wastewater treatment facilities that treat or generate hazardous wastes.* Numerous comments have been received about the appropriateness of applying the requirements of Parts 264 and 265 to these facilities and requiring them to have RCRA Subtitle C permits. We hope to address this issue in late September.

11. *Clarification of and possible amendments to the delisting procedures in § 260.22.* Many questions and comments are being received on these procedures, one of which is the status of a delisting petition during the period between a favorable tentative decision to grant the petition and a final decision (see § 260.22). We are considering these questions and comments and hope to address them in November.

12. *Application of the regulations to spills of listed chemicals and hazardous wastes.* Questions have been raised about the applicability of the regulations to spills of listed chemicals and hazardous wastes (both at facilities and during transportation). They include the following: Is a permit required for clean-up activities, particularly those involving treatment, storage or disposal? Is a manifest required for emergency transport of spilled material? Who is the generator—the transporter or the clean-up firm? How do the hazardous waste spill regulations relate to the spill regulations issued by EPA under Section 311 of the Clean Water Act? We hope to address these and related questions in RIMs and amendments to the regulations in October.

13. *Application of the regulations to dredged materials which are hazardous wastes because they exhibit any of the characteristics of hazardous wastes.* Questions have been raised about the application of the hazardous waste regulations to dredged materials and the interrelationship between these regulations and those issue by EPA under Section 404 of the Clean Water Act. We hope to address these questions in a RIM and, where appropriate, amendments to the regulations in October.

14. *The circumstances under which a facility can obtain interim status after November 19, 1980.* We have been asked whether an existing facility which does not now handle hazardous waste can obtain interim status in the future if, for example, EPA amends its hazardous waste list to add a waste which the facility now handles. We hope to address this issue in a RIM in September.

15. *Clarification of "existing facility".* A number of persons have asked us to clarify the definition of "existing facility," particularly whether the definition of "commenced construction" pertains to an entire manufacturing site or only the hazardous waste facility located on the site. We intend to deal with this issue in a RIM or an amendment in September.

16. *The Office of Management and Budget's (OMB) review of EPA's Parts 264 and 265 reporting requirements under the Federal Reports Act.* OMB recently approved EPA's Parts 264 and

265 reporting requirements under the Federal Reports Act on the condition that EPA extend, until May 19, 1981, the deadline by which landfills, landfarms and surface impoundments which intend to close as landfills must prepare a closure and post-closure monitoring and maintenance plan. EPA will be issuing an amendment to its regulations to reflect this change in August.

In addition to the foregoing, we expect to publish a RIM or an amendment to the regulations, as appropriate, on each of the following issues during the next three months:

1. Definition of empty container
2. Clarification of "empty tank" as it applies in the accumulation of hazardous wastes
3. Application of regulations to samples of hazardous wastes being transported to and processed in laboratories
4. Application of the regulations to pipelines transporting hazardous wastes to off-site facilities
5. Application of regulations to run-off from non-hazardous waste storage piles and raw materials storage piles
6. Clarification of the regulations as they apply to ocean disposal of hazardous wastes

III. Effect of Technical Amendments and Interpretive Memoranda on Compliance Deadlines

This notice does not suspend any requirements in EPA's February 26, and May 19, 1980, regulations. Until an amendment or interpretive memorandum is published on a particular issue, those regulations will remain in effect and individuals should use their best judgment in interpreting them. It is EPA's intent to resolve the issues outlined above prior to the November 19, 1980, effective date of the February 26, 1980 and May 19, 1980 regulations. Should a number of outstanding major issues not be addressed by November 19, 1980, EPA will consider whether the adoption of a temporary special enforcement policy would be appropriate to deal with these situations.

IV. Requesting Amendments or Interpretive Memoranda

As explained in the preamble to EPA's May 19, 1980, regulations any person may submit a petition to amend EPA's hazardous waste regulations (45 FR 33069–33070). Sections 260.20 through 260.22 of the regulations prescribe the information which should be contained in such petitions and describe the procedures which EPA will follow in acting on them.

EPA will also issue interpretive memoranda (if appropriate) on written request. Persons wishing to file such a request should follow the general requirements for rulemaking petitions in § 260.20, except that in lieu of describing their proposed amendment and the justification for it, they should indicate the particular factual situation or regulation for which a regulatory interpretation is requested.

For the reasons stated in I. B., it may be many months before EPA can act on rulemaking petitions or requests for interpretive memoranda. However, requests will be acknowledged within 10 days after receipt. To the extent feasible, the Agency will address first those issues having the most immediate and wide-ranging impact. It should be noted that the filing of a petition or request for interpretation does not stay the compliance date for any regulation.

Dated: August 5, 1980.

Eckardt C. Beck,

Assistant Administrator for Water & Waste Management.

[FR Doc. 80-25158 Filed 8-15-80; 1:31 pm]

BILLING CODE 6560-01-M

federal register

Tuesday
August 19, 1980

Part VI

Department of Agriculture

Federal Grain Inspection Service

Official Grain Inspection Functions; Assignment of Geographic Area

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Assignment of Geographic Area to the Fort Worth Grain Exchange Inspection Service, Inc., Fort Worth, Tex.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Fort Worth Grain Exchange Inspection Service, Inc., Fort Worth, Texas, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Fort Worth Grain Exchange Inspection Service, Inc., 2707 Decatur Avenue, P.O. Box 4421, Fort Worth, Texas 76106, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on March 20, 1979. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the Octo- ber 18, 1979, issue of the **Federal Register** (44 FR 60130). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency shall be the area within the following Counties in Texas:

Bell, Bosque, Brown, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Ellis, Falls, Fannin, Grayson, Hamilton, Hill, Johnson, Lamar, Limestone, McLennan, Milam, Red River, Tarrant, and Williamson.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 13, 1980.

Neil E. Porter,

Acting Director Compliance Division.

[FR Doc. 80–25163 Filed 8–18–80; 8:45 am]

BILLING CODE 3410–02–M

Assignment of Geographic Area to Grain Inspection, Inc., Jamestown, N. Dak.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Grain Inspection, Inc., Jamestown, North Dakota, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Grain Inspection, Inc., 217 4th Avenue, N.W., P.O. Box 1652, Jamestown, North Dakota 58401, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on March 1, 1979. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the November 23, 1979, issue of the **Federal Register** (44 FR 67199–67200). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is as follows:

Bounded: on the North by Interstate 94 to U.S. Route 85; U.S. Route 85 north to State Route 200; State Route 200 east to U.S. Route 83; U.S. Route 83 southeast to State Route 41; State Route 41 north to State Route 200; State Route 200 east to State Route 3; State Route 3 north to U.S. Route 52; U.S. Route 52 southeast to State Route 15; State Route 15 east to U.S. Route 281; U.S. Route 281 south to Foster County; the northern Foster County line; the northern Griggs County line east to State Route 32;

Bounded: on the East by State Route 32 south to State Route 45; State Route 45 south to State Route 200; State Route

200 west to State Route 1; State Route 1 south to the Soo Railroad line; the Soo Railroad line southeast to Interstate 94; Interstate 94 west to State Route 1; State Route 1 south to Dickey County line;

Bounded: on the South by the southern Dickey County line west to U.S. Route 281; U.S. Route 281 north to the Lamoure County line; the southern Lamoure County line; the southern Logan County line west to State Route 13; State Route 13 west to U.S. Route 83; U.S. Route 83 south to the Emmons County line; the southern Emmons County line; the southern Sioux County line west to State Route 49; State Route 49 north to State Route 21; State Route 21 west to the Chicago Milwaukee St. Paul and Pacific Railroad line; the Chicago Milwauee St. Paul and Pacific Railroad line northwest to State Route 22; State Route 22 south to U.S. Route 12; U.S. Route 12 west-northwest to the North Dakota State line; and

Bounded: on the West by the western North Dakota State line north to Interstate 94.

In addition, the following locations outside of the foregoing contiguous geographic area, which have been and will continue to be serviced by the Agency, shall be considered as part of the Agency's geographic area: Farmers Coop Elevator, Fessenden, North Dakota, in Wells County; Farmers Union Elevator and Manfred Grain, Manfred, North Dakota, in Wells County; and Norway Spur and Oakes Grain, Oakes, North Dakota, in Dickey County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by: Aberdeen Grain Inspection, Inc.: Farmers Elevator, Guelph, North Dakota, in Dickey County; Farmers Equity Exchange and Sun Grain, New England, North Dakota, in Hettinger County; and Regent Grain Company and Regent Equity, Regent, North Dakota, in Hettinger County; and by Minot Grain Inspection, Inc.: Farmers Elevator & Mercantile Co., and Coast Trading Company, Underwood, North Dakota, in McLean County; and Merle A. Larson Elevator, Inc., Washburn, North Dakota, in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 13, 1980.

Neil E. Porter,

Acting Director Compliance Division.

[FR Doc. 80–25164 Filed 8–18–80; 8:45 am]

BILLING CODE 3410–02–M

Assignment of Geographic Area to the Minot Grain Inspection, Inc., Minot, N. Dak.

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the Minot Grain Inspection, Inc., Minot, North Dak., for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Minot Grain Inspection, Inc., 601 3rd Avenue, P.O. Box 13, Minot, North Dak. 58701, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on February 1, 1979. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the November 23, 1979, issue of the **Federal Register** (44 FR 67196–67197). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic area shall remain as originally proposed.

The geographic area assigned to the Agency is as follows:

Bounded: on the North by the North Dakota State line east to State Route 14;

Bounded: on the East by State Route 14 south to State Route 5; State Route 5 east to State Route 60; State Route 60 southeast to State Route 3; State Route 3 south to State Route 200;

Bounded: on the South by State Route 200 west to State Route 41; State Route 41 south to U.S. Route 83; U.S. Route 83 northwest to State Route 200; State Route 200 west to U.S. Route 85; U.S. Route 85 south to Interstate 94; Interstate 94 west to the North Dakota State line; and

Bounded: on the West by the North Dakota State line.

In addition, the following locations outside of the foregoing contiguous geographic area, which have been and will continue to be serviced by the Agency, shall be considered as part of the Agency's geographic area: Farmers Elevator Company, Bottineau, North Dakota, in Bottineau County; Farmers Feed & Grain and Farmers Union, Harvey, North Dakota, in Wells County; Farmers Union, Rugby, North Dakota, in Pierce County; Farmers Elevator & Mercantile Co., and Coast Trading Company, Underwood, North Dakota, in McLean County; and Merle A. Larsen Elevator, Inc., Washburn, North Dakota, in McLean County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the agency will provide official inspection services not requiring a licensed

inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 13, 1980.

Neil E. Porter,

Acting Director Compliance Division.

[FR Doc. 80–25165 Filed 8–18–80; 8:45 am]

BILLING CODE 3410–02–M

Assignment of Geographic Area to A. V. Tischer and Son, Inc., Fort Dodge, Iowa

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of geographic area to the A. V. Tischer and Son, Inc., Fort Dodge, Iowa, for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 18, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

A. V. Tischer and Son, Inc., 137 10th Street, N.W., P.O. Box 339, Fort Dodge, Iowa 50501, was designated as an official agency under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on February 1, 1979. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act.

The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic area assigned on an interim basis to the Agency was announced in the November 19, 1979, issue of the **Federal Register** (44 FR 66220–66221). No comments were received during the comment period. However, in a March 13, 1980, letter, the Agency requested that the geographic area which was assigned on an interim basis be amended to exclude a portion of the area as described below. The Agency indicated that servicing this portion of the area imposed a financial hardship upon them and that the distance from their main office was a deterrent to providing timely service. This portion of the area was assigned on an interim basis effective May 18, 1980, and terminating at such time as a permanent replacement agency is designated, to the Fremont Grain Inspection Department, Inc., in the May 16, 1980, issue of the **Federal Register** (45 FR 32569).

The description of the area being deleted from the Agency is as follows:

Bounded: on the North by the Iowa-Minnesota State line east from U.S. Route 59 to U.S. Route 71;

Bounded: on the East by U.S. Route 71 south to the southern Clay County line;

Bounded: on the South by the southern Clay County Line west;

Bounded: on the West by the western Clay County Line north to B24; B24 west to U.S. Route 59; U.S. Route 59 north to the Iowa-Minnesota State Line.

After due consideration of all information available to the United States Department of Agriculture, the geographic area assigned to the Agency is as follows:

Bounded: on the North by the Iowa-Minnesota State line from U.S. Route 71 east to U.S. Route 169;

Bounded: on the East by U.S. Route 169 south to State Route 9; State Route 9 west to U.S. Route 169; U.S. Route 169 south to the northern Humboldt County line; the Humboldt County line east to State Route 17; State Route 17 south to C54; C54 east to U.S. Route 69; U.S. Route 69 south to the northern Hamilton County line; the Hamilton County line west to R38; R38 south to U.S. Route 20; U.S. Route 20 west to the eastern Webster County line; the Webster County line south; the southern Webster County line to U.S. Route 169; U.S. Route 169 south to E18 west; E18 west to the eastern Greene County line; the Greene County line to U.S. Route 30;

Bounded: on the South by U.S. Route 30 west to E53; E53 west to N44; N44 north to U.S. Route 30; U.S. Route 30 west to U.S. Route 71; and

Bounded: on the West by U.S. Route 71 north to the Iowa-Minnesota State line.

In addition, the following locations outside of the foregoing contiguous geographic area, which have been and will continue to be serviced by the Agency, shall be considered as part of the Agency's geographic area: Cargill, Inc., Algona, Iowa, in Kossuth County; Farmers Coop Elevator, Boxholm, Iowa, in Boone County; Big Six Elevator, Burt, Iowa, in Kossuth County; Farmers Elevator, Goldfield, Iowa, in Wright County; and Farmers Coop Elevator, Holmes, Iowa, in Wright County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by: D. R. Schaal: Farmers Coop Company, Eagle Grove, Iowa, in Wright County; and by Sioux City Inspection and Weighing Agency, Inc.: Gooch Seed Mill and Ernie's Seed and Field Service, Storm Lake, Iowa, in Buena Vista County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In addition to the specified service points within the assigned geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the assigned geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 13, 1980.

Neil E. Porter,

Acting Director Compliance Division.

[FR Doc. 80–25166 Filed 8–18–80; 8:45 am]

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federal register

Tuesday
August 19, 1980

Part VII

Federal Mediation and Conciliation Service

Arbitration of Pesticide Data Disputes

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1440

Arbitration of Pesticide Data Disputes

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Final Regulations.

SUMMARY: The Federal Insecticide, Fungicide, & Rodenticide Act (hereinafter "FIFRA") provides for the appointment of arbitrators by the Federal Mediation and Conciliation Service (hereinafter "FMCS" or "the Service") if the parties to a dispute regarding either compensation for the use or joint development of pesticide data cannot reach an agreement. FIFRA provides that the procedure and rules of the Service shall be applicable to such arbitration proceedings. (Pub. L. 95–396, September 30, 1978, Sections 3(c)(1)(D)(ii) and 3(c)(2)(B)(iii)).

The final rule establishes the procedure by which the Federal Mediation and Conciliation Service will appoint arbitrators to assist pesticide producers in the resolution of disputes over the value of technical data concerning the properties and effects of pesticides or joint development of such data. For this purpose, the Service will utilize as its roster of arbitrators the roster of commercial arbitrators maintained by the American Arbitration Association ("AAA"), a non-profit private organization with long experience in commercial dispute resolution. The FIFRA arbitration rules of the AAA will be the rules of procedure to be followed for arbitration of pesticide data compensation disputes.

Interested parties were invited to submit written comments concerning interim regulations published at 45 FR 28105, April 28, 1980. No submissions were received. Therefore, this final regulation does not differ from the interim rule.

EFFECTIVE DATE: This regulation becomes effective September 18, 1980.

FOR FURTHER INFORMATION CONTACT: Nancy B. Broff, Assistant General Counsel, 2100 K Street, NW., Washington, D.C. 20427, (202) 653–5305.

SUPPLEMENTARY INFORMATION: This rule will provide a mechanism for the binding resolution of certain disputes that may arise between persons who have attained or are seeking government authorization to produce and sell pesticides. Rules promulgated by the Environmental Protection Agency ("EPA") at 40 CFR 162.9–1 through –.8 (see 40 FR 28242, July 3, 1975 and 44 FR 27932 May 11, 1979) described the circumstances in which one pesticide producer either may or must base an application for licensing of a pesticide upon information previously submitted to EPA. Use of said data gives rise to an obligation under § 3(c)(1)(D)(ii) of the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA") on the part of the applicant to pay compensation to the submitter of the information. Under § 3(c)(2)(B)(iii), disputes concerning joint development of data to satisfy EPA data requirements are also subject to compulsory arbitration.

The role of the FMCS is limited to the appointment of arbitrators to resolve compensation disputes. The duties and obligations of EPA and the parties to the dispute are specified in the rules cited above and are explained in considerable detail in the preambles. Therefore, interested persons are urged to read and understand the EPA rulemaking and contact EPA concerning those matters not addressed in the following rule.

Background

Congress has demonstrated its belief that the costs of generating information to evaluate pesticide risks be equitably apportioned among registrants of pesticide products. In Section 3(c)(1)(D) of the 1972 FIFRA, Congress authorized the Administrator of EPA to consider data submitted by firm A (other than "trade secret" data) when evaluating an application from firm B so long as firm B offered to pay "reasonable compensation" to A. The 1972 Act provided that the Administrator would fix the amount of compensation if the applicant and submitter could not agree on an amount.

In 1973, EPA implemented the compensation provision of FIFRA with an Interim Policy Statement. This policy did not require direct communication of an offer from firm B to firm A. Rather, it permitted firm A to claim compensation from B on the basis of a general notice in the **Federal Register** that B's application had been granted. If the parties could not agree on an amount of compensation, they could offer evidence concerning the reasonableness of the amount sought or offered in a hearing before an Administrative Law Judge, who would decide the sum. The situation became complicated in 1975, when EPA eliminated the practice of granting registration based on "established use patterns." Applicants were now required to identify data submitted by prior registrants on which they intended to rely and to advise the Agency that they had offered compensation to the original submitter. The response of many prior registrants to such offers was to advise EPA that the data on which applicants intended to rely were "trade secret," and therefore not subject to licensing. In other cases, because of poorly organized files at EPA, applicants experienced difficulty in identifying appropriate data to support registrations, or applicants were unwilling to extend offers to pay an unspecified amount of compensation.

Because of concern that FIFRA's complex provisions and EPA's difficulties in implementing them were affecting the viability of the pesticide industry, Congress directed EPA to conduct an evaluation and report its findings (H.R. 94–1105). A report, entitled *FIFRA: Impact on the Industry*, was subsequently submitted to Congress on March 7, 1977. Almost simultaneously EPA requested that Congress enact major changes to the pesticide statute.

On April 27, 1977, EPA Administrator Costle testified on behalf of an Administration proposal to amend FIFRA. He recomnmended the deletion of the "trade secret" exclusion for the Act's mandatory data licensing scheme. He also observed that EPA felt uncomfortable as the judge of data valuation disputes and asked Congress to provide guidance by specifying the factors to be considered when making valuations.

In response, the Senate and the House passed bills providing for final and binding arbitration of compensation disputes by arbitrators appointed by FMCS. Neither S. 1678 nor H.R. 8681 specified a formula or other guidance on the valuation of data for compensation purposes. The Conference Committee substantially modified the provisions of each bill which pertained to data available for compensation, the duration of the compensable period and sanctions for failure to negotiate or arbitrate compensation disputes. Provisions were incorporated to permit any party to a compensation dispute of a specified duration to "initiate binding arbitration by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by (the) Service."

Section 3(c)(1)(D)(ii) of FIFRA, as amended by the Federal Pesticide Act of 1978, provides in pertinent part:

> (ii) except as otherwise provided in subparagraph (D)(i) of this paragraph, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data

submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the "applicant") within the fifteen-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of ninety days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment on the fees expenses of the arbitrator.

Section 3(c)(2)(B)(iii) contains similar provisions for disputes arising during joint development of data. In addition, the parties to any dispute may choose to submit their dispute voluntarily to arbitration. In such case, the parties may go directly to AAA for appointment of an arbitrator.

The role of the FMCS is relatively minor within the context of the pesticide registration program as indicated by FIFRA and the limited legislative history which is available. According to the statute, the duties of the Service under FIFRA are to:

(1) Designate a person to arbitrate a compensation dispute, when requested.

(2) Maintain a roster of persons qualified and available to conduct the arbitration proceedings.

(3) Adopt rules of procedure to be followed in the conduct of compensation arbitration.

The Federal Mediation and Conciliation Service rarely arranges or conducts arbitration of commercial disputes. The Service is in the business of helping to resolve labor disputes between employers and representative of their employees. Among various means to further that purpose, FMCS maintains a roster of names of private labor arbitrators who do not handle commercial disputes such as the compensation disputes arising under FIFRA.

Therefore, in the Notice of Proposed Rulemaking (44 FR 43293, July 24, 1979) the Service proposed to adopt and use the Commercial Arbitration Roster of the American Arbitration Association (AAA) as its roster and to adopt the AAA's rules of commercial arbitration as its rules of procedure for disputes arising under FIFRA.

The Notice of Proposed Rulemaking was published in the **Federal Register** on July 24, 1979 for a 60-day period of public comment. Five thousand copies of the proposed regulations were mailed to interested parties. The comment period was reopened to allow further comment. (44 FR 65407, November 13, 1979). All comments received have been carefully considered.

After reviewing the comments, FMCS promulgated an interim final rule on April 28, 1980, (45 FR 28105). No comments were received during the comment period on the interim regulation.

This final rule is issued under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act, Public Law 95–396 September 30, 1978, Sections 3(c)(1)(D)(ii) and 3(c)(2)(B)(iii).

Federal Mediation and Conciliation adds Part 1440 to Title 29 of the Code of Federal Regulations as set forth below.

Dated: August 8, 1980.

Robert P. Gajdys,

Director of Administration.

A new Part 1440 is added to 29 CFR as follows:

PART 1440—ARBITRATION OF PESTICIDE DATA DISPUTES

Sec.

1440.1 Arbitration of pesticide data disputes.

Appendix—FIFRA Arbitration Rules.

Authority: Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.), as amended, Pub. L. 95–396, 92 Stat. 819.

PART 1440—ARBITRATION OF PESTICIDE DATA DISPUTES

§ 1440.1 Arbitration of Pesticide Data Disputes.

(a) Persons requesting the appointment of an arbitrator under Section 3(c)(1)(D)(ii) and Section 3(c)(2)(B)(iii) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, as amended), shall send such requests in writing to the appropriate American Arbitration Association Regional Office. Such requests must include the names, addresses, and telephone numbers of the parties to the dispute; issue(s) in dispute, the amount in dollars or any other remedy sought; sufficient facts to show that the statutory waiting period has passed, and the appropriate fee provided in the Fee Schedule.

(b) For the purpose of compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (hereinafter "the Act"), the roster of arbitrators maintained by the Federal Mediation and Conciliation Service shall be the roster of commerical arbitrators maintained by the American Arbitration Association. Under this Act, arbitrators will be appointed from that roster. The fees of the American Arbitration Association shall apply, and the procedure and rules of the Federal Mediation and Conciliation Service, applicable to arbitration proceedings under the Act, shall be the FIFRA arbitration rules of the American Arbitration Association, which are hereby made a part of this regulation.

Appendix—FIFRA Arbitration Rules

Section 1

These rules shall apply as published in the **Federal Register** unless modified by FMCS.

Sec. 2. Definitions

For the purpose of these Rules of Procedure the terms are defined as follows:

(1) "AAA" means the American Arbitration Association.

(2) "Act" or "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.*

(3) "EPA" means the United States Environmental Protection Agency.

(4) "Arbitrator(s)" means the person or persons appointed to the tribunal constituted by the parties for the settlement of their dispute under these Rules.

(5) "Claimant" means a person asserting a claim for compensation under these Rules or filing a claim concerning joint development of data.

(6) "Compulsory arbitration" means arbitration invoked under the mandatory provisions of section 3(c)(1)(d) or 3(c)(2)(B)(iii) of the Act.

(7) "Voluntary arbitration" means arbitration voluntarily agreed to by the parties to settle a dispute under section 3(c)(1)(d) or 3(c)(2)(B)(iii) of the Act.

(8) "Director" means Director, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, or any officer or employee of the EPA to whom authority has been or

may hereafter be lawfully delegated to act in his stead.

(9) "Administator" means the AAA, its Tribunal Administrators or such officers or committees as the AAA may direct.

(10) "Roster" means the Commercial Arbitration Roster of AAA.

(11) "FMCS" or "Service" means the Federal Mediation and Conciliation Service.

(12) "Party" means claimant or respondent.

(13) "Person" means any individual, partnership, association, corporation, or any organized group of persons, whether incorporated or not.

(14) "Respondent" means the person against whom a claim is made under section 3(c)(1)(D) or 3(c)(2)(B)(iii) of the Act.

Terms defined in the Act and not explicitly defined herein are used herein with the meanings given in the Act.

Sec. 3. Initiation of Arbitration

(a) *Under compulsory procedures of FIFRA.* Upon the request of a party qualified under FIFRA § 3(c)(1)(D) or 3(c)(2)(B)(iii) for the appointment of an arbitrator, the Service will appoint an arbitrator in accordance with 29 CFR § 1440(a) and these rules. Requests shall be submitted in writing to the appropriate AAA Regional Office and must include the names, addresses and telephone numbers of the parties to the dispute; issues in dispute; the amount in dollars or any other remedy sought; sufficient facts to show that the statutory waiting period has passed; and the appropriate fee as provided in the Fee Schedule.

AAA shall give notice of filing of a request for arbitration to the other party. If he so desires, the party upon whom the demand for arbitration is made may file an answering statement in duplicate with AAA within seven days after notice, in which event he shall simultaneously send a copy of his answer to the other party. If a monetary claim is made in the answer the appropriate fee provided in the Fee Schedule shall be forwarded with the answer. If no answer is filed within the stated time, it will be assumed that the claim is denied. Failure to file an answer shall not operate to delay the arbitration.

(b) *Under a Voluntary Submission.*— Parties to any existing dispute may commence an arbitration under these Rules by filing at any AAA Regional Office two (2) copies of a written agreement to arbitrate under these Rules (Submission), signed by the parties. It shall contain a statement of the matter in dispute, the amount of money involved, if any, and the remedy sought, together with the appropriate administrative fee as provided in the Fee Schedule.

Sec. 4—Fixing of Locale

The parties may mutually agree on the locale where the arbitration is to be held. If the locale is not designated within seven days from the date of filing the Demand or Submission the AAA shall have power to determine the locale. Its decision shall be final and binding. If any party requests that the hearing be held in a specific locale and the other party files no objection thereto within seven days after notice of the requests, the locale shall be the one requested.

Sec. 5—Qualification of Arbitrator

Any Arbitrator appointed pursuant to these rules shall be neutral, subject to disqualification for the reasons specified in Section 11. If the agreement of the parties names an Arbitrator or specifies any other method of appointing an Arbitrator, or if the parties specifically agree in writing, such Arbitrator shall not be subject to disqualification for said reasons.

Sec. 6—Appointment From Panel

If the parties have not appointed an Arbitrator and have not provided any other method of appointment, the Arbitrator shall be appointed in the following manner. Immediately after the filing of the Request or Submission, the AAA shall submit simultaneously to each party to the dispute an identical list of names of persons chosen from the Panel. Each party to the dispute shall have seven days from the mailing date in which to cross off any names to which he objects, number the remaining names indicating the order of his preference, and return the list to the AAA. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the AAA shall invite the acceptance of an Arbitrator to serve, and the Service shall appoint the Arbitrator. If the parties fail to agree upon any of the persons named, or if acceptable Arbitrators are unable to act, or if for any other reason the appointment cannot be made from the submitted lists, the FMCS shall have the power to make the appointment from other members of the Panel without the submission of any additional lists.

Sec. 7—Direct Appointment by Parties

If the agreement of the parties to a Submission names an Arbitrator or specifies a method of appointment of an Arbitrator, that designation or method shall be followed. The notice of appointment, with name and address of such Arbitrator, shall be filed with the AAA by the appointing party. Upon the request of any such appointing party, the AAA shall submit a list of members from the Panel from which the party may, if he so desires, make the appointment.

If the agreement specifies a period of time within which an Arbitrator shall be appointed, and any party fails to make such appointment within that period, the AAA shall make the appointment.

Sec. 8—Appointment of Neutral Arbitrator by Party Appointed Arbitrators

If the parties have appointed their Arbitrators or if either or both of them have been appointed as provided in Section 7, and have authorized such Arbitrators to appoint a neutral Arbitrator within a specified time and no appointment is made within such time or any agreed extension thereof, the FMCS shall appoint a neutral Arbitrator who shall act as Chairman.

If no period of time is specified for appointment of the neutral Arbitrator and the parties do not make the appointment within seven days from the date of the appointment of the last party-appointed Arbitrator, the FMCS shall appoint such neutral Arbitrator, who shall act as Chairman.

If the parties have agreed that their Arbitrators shall appoint the neutral Arbitrator from the Panel, the AAA shall furnish to the party-appointed Arbitrators, in the manner prescribed in Section 6, a list selected from the Panel, and the appointment of the neutral Arbitrator shall be made as prescribed in such Section.

Sec. 9—Number of Arbitrators

If the arbitration agreement does not specify the number of Arbitrators, the dispute shall be heard and determined by one Arbitrator, unless the AAA in its discretion, directs that a greater number of Arbitrators be appointed.

Sec. 10—Notice to Arbitrator of His or Her Appointment

Notice of the appointment of the neutral Arbitrator, whether appointed by the parties, by the AAA or FMCS shall be mailed to the Arbitrator, together with a copy of these Rules, and the signed acceptance of the Arbitrator

shall be filed with AAA prior to the opening of the first hearing.

Sec. 11—Disclosure and Challenge Procedure

A person appointed as neutral Arbitrator shall disclose to the AAA any circumstances likely to affect his or her impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their counsel. Upon receipt of such information from such Arbitrator or other source, the AAA shall communicate such information to the parties, and, if it deems it appropriate to do so, to the Arbitrator. Thereafter, the AAA shall make a determination whether the Arbitrator should be disqualified. The determination, however, may be appealed to FMCS. The decision of FMCS shall be conclusive.

Sec. 12—Vacancies

If any Arbitrator should resign, die, withdraw, refuse, be disqualified, or be unable to perform the duties of his office, AAA may, on proof satisfactory to it, declare the office vacant. Either party to a compulsory arbitration may request the FMCS to review a declaration of disqualification. Vacancies shall be filled in accordance with the applicable provision of these Rules and the matter shall be reheard unless the parties shall agree otherwise.

Sec. 13—Commencement of Proceeding

(a) Within 60 days from receipt by the parties of notice of the appointment of an arbitrator, the claimant shall file with AAA:

(1) If appropriate, a detailed statement as to the amount of compensation claimed, the method of computing said amount, and terms of payment, and a list of the test data deemed to be compensable, together with a detailed justification therefore.

(2) A certification as to: (i) Whether any court or tribunal has made determinations for payment by any other persons to claimant for use of the same test data and, if so, identification of the persons against whom the 3(c)(2)(B) determinations were issued and the application for registration for which the test data was used; and (ii) whether any other claims against any persons are pending in arbitration or in any court for use of the same test data and, if so, an identification of the persons against whom the claims are pending and the applications for registration on which the claims are being made.

(3) A detailed statement of the matter in dispute under 3(c)(2)(B).

(b) Within 60 days of service of the documents referred to in subsection (a) the respondent shall file a detailed statement of its position as to the amount of compensation due, method of computation, terms of payment, and list of data deemed to be compensable together with a detailed justification therefore or a detailed statement of the dispute under 3(c)(2)(5). To the extent any portion of the claimant's statement of its claim is not denied or challenged by respondent, it shall be deemed admitted.

(c) After respondent's statement is filed, the arbitrator may, upon request by a party, request the Director to supplement the file with additional information, including copies of relevant test data, information contained in a relevant registration file, a statement as to data requirements for registration, or any other information which the arbitrator deems to be relevant. Upon request by a party or other interested person, the arbitrator shall order protective measures to safeguard and restrict access to confidential business information.

Sec. 14—Filing and Service

(a) All documents or papers required or authorized to be filed, shall be filed with the AAA for transmittal to the arbitrator, except as otherwise herein provided, and shall bear the caption of the case and the docket number. At the same time that a party files documents or papers with the AAA, the party shall serve upon all other parties copies thereof, with a certificate of service on or attached to each document or paper, including those filed with the arbitrator. If a party is represented by counsel or other representative, service shall be made on such representative. Service may be made personally or by regular mail, and if made by mail shall be deemed complete on mailing. If filing is accomplished by mail addressed to the AAA, filing shall be deemed timely if the papers are postmarked on the due date.

(b) All orders, decisions, or other documents made or signed by the arbitrator shall be served immediately upon all parties.

Sec. 15—Time

(a) In computing any period of time prescribed or allowed by these rules, except as otherwise provided, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays and legal holidays shall be included in computing the time allowed for the filing of any document or paper, except that when such time expires on a Saturday, Sunday, or legal holiday, such period shall be extended to include the next following business day.

(b) When by these rules or by order of the arbitrators, an act is required or allowed to be done at or within a specified time, the arbitrator or AAA for cause shown may at any time in their discretion (1) with or without motion or notice, order the period enlarged if request therefore, which may be made *ex parte*, is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) on motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect or other good cause.

Sec. 16—Communication with Arbitrator and Serving of Notices

(a) There shall be no communication between the parties and a neutral arbitrator other than at oral hearings. Any other oral or written communications from the parties to the arbitrator shall be directed to the AAA for transmittal to the arbitrator.

(b) Each party to an agreement which provides for arbitration under these Rules shall be deemed to have consented that any papers, notices or process necessary or proper for the initiation or continuation of an arbitration under these Rules and for any court action in connection therewith or for the entry of judgment on any award made thereunder may be served upon such party by mail addressed to such party or his attorney at his last known address or by personal service, within or without the State wherein the arbitration is to be held (whether such party be within or without the United States of America): *Provided*, That reasonable opportunity to be heard with regard thereto has been granted such party.

Sec. 17—Time of Award

The award shall be made promptly by the arbitrator and, unless otherwise agreed by the parties, or specified by law, no later than thirty days from the date of closing the hearings, or if oral hearings have been waived, from the date of transmitting the final statements and proofs to the arbitrator.

Sec. 18—Appearances

(a) Parties may appear in person or by counsel or other representative. Persons who appear as counsel or in a representative capacity must conform to the standards of ethical conduct

required of practitioners before the courts of the United States.

(b) Any party to the proceeding who, after being duly notified and without good cause being shown fails to appear at a prehearing conference or fails to respond to correspondence, shall be deemed to have waived his rights with respect thereto and shall be subject to such orders or determinations with respect thereto as the arbitrator shall make. The failure of a party to appear at a hearing shall constitute a waiver of the right to present evidence at such hearing. Where either party fails to appear at a hearing, the arbitrator shall require the presentation by the present party of such evidence as he deems necessary to prepare a decision in conformity with the requirements of the act.

(c) Any person having a direct interest in the arbitration is entitled to attend hearings. The arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other person.

Sec. 19—Consolidation and Severance

(a) The AAA may with agreement of all parties consolidate any matters at issue in two or more proceedings docketed under these Rules of Procedure where there exist common parties, common questions of fact and law, and where such consolidation would expedite or simplify consideration of the issues. Consolidation may also be effected where separate claims for use of the same test data are made against different respondents. The arbitrator who presides over the consolidated proceeding shall be chosen in accordance with section 3, *supra.*

(b) The arbitrator may, by motion or *sua sponte,* for good cause shown order any proceeding severed with respect to some or all parties or issues.

Sec. 20—Protection of Confidential Information

(a) The arbitrator shall make such orders as required to protect the secrecy of confidential information or documents such as review *in camera.*

(b) The arbitrator shall impose a sanction against any party who violates an order issued under this section. Such sanction may include an award against the offending party.

Sec. 21—Scheduling of Hearing

(a) After consideration of the convenience of the parties, the AAA shall serve upon the parties a notice of hearing setting a time and place for such hearing.

(b) Except for good cause shown, no request for postponement of a hearing will be granted. Such request must be received in writing at least a day in advance of the time set for the hearing. In case of postponement, the hearing shall be rescheduled for a date as early as circumstances will permit.

Sec. 22—Optional Accelerated Procedure

(a) In claims involving $25,000 or less, the parties may elect, prior to commencement of hearing, to have the claim processed under an expedited procedure. If no specific amount of claim is stated, a case will be considered to fall within this rule if the amount which the claimant represents in writing that it could recover as a result of any arbitrator's decision favorable to it does not exceed $25,000. Upon such election, a case shall then be processed under this rule unless the respondent objects and shows good cause why the substantive nature of the dispute requires processing under the regular procedures. In cases proceeding under this rule, the parties have waived discovery and briefs.

(b) The arbitrator shall schedule the dispute for hearing within thirty (30) days of service of notice to the parties that the dispute will be governed by this accelerated procedure, unless either party requests that the case be submitted without hearing under Section 19.

(c) Written decision by the arbitrators in cases proceeding under this rule normally will be short and contain summary findings of fact and conclusions only. The arbitrator shall render such decisions promptly, but in no event later than thirty days after the dispute is ready for decision.

Sec. 23—Discovery

(a) Either party may move for permission to serve written interrogatories and requests for production of documents upon the opposing party. The arbitrator shall grant such motion to the extent that such interrogatories and requests are designed to produce relevant evidence and only upon such terms as the arbitrator in his or her discretion considers to be consistent with the objective of securing a just and inexpensive determination of the dispute without unnecessary delay.

(b) Upon motion by either party, the arbitrator may order a deposition upon a showing of good cause and a finding that the deposition is designed to secure relevant and probative evidence which (1) cannot be obtained by alternative means, or (2) may otherwise not be preserved for presentation at hearing.

(c) If a party fails to comply with an order issued under this section, the arbitrator shall draw inferences adverse to that party in connection with the facts sought to be discovered.

(d) At least thirty days prior to the hearing, each party shall make available to each other party the names of the expert and other witnesses it intends to call, together with a detailed summary of their expected testimony, and copies of all documents and exhibits which the party intends to introduce into evidence. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended only upon motion by a party for good cause shown.

Sec. 24—Prehearing Conference

(a) When it appears that such procedure will expedite the preceeding, the arbitrator at any time prior to the commencement of the hearing may request the parties and their counsel or other representative to appear at a conference before him or her to consider:

(i) The possibility of settlement of the case;

(ii) The simplification of issues and stipulation of facts not indispute;

(iii) The necessity or desirability of amending or supplementing documents in the record;

(iv) The possibility of obtaining admissions or stipulations of fact and of documents which will avoid unnecessary proof;

(v) The limitation of the number of expert or other witnesses;

(vi) The setting of a time and place for the hearing, giving consideration to the convenience of all parties and to the public interest; and

(vii) Any other matters as may expedite the disposition of the proceeding.

(b) No transcript of any prehearing conference shall be made unless ordered upon motion of a party or *sua sponte* by the arbitrator. In the absence of a transcript, the arbitrator shall prepare and file a report of the action taken at such conference. Such report shall incorporate any written stipulations or agreements made by the parties, all rulings upon matters considered at such conference, and appropriate orders containing directions to the parties. Such report shall, as appropriate, direct the subsequent course of the proceeding, unless modified by the arbitrators on motion or *sua sponte.*

Sec. 25—Evidence

(a) The arbitrator shall admit all evidence which is relevant, competent, material, not privileged, and not unduly repetitious. The weight to be given evidence shall be determined by its reliability and probative value.

(b) Except as otherwise provided in these Rules of Procedure or by the arbitrator, witnesses shall be examined orally, under oath or affirmation. Parties shall have the right to cross-examine a witness who appears at the hearing provided that such cross-examination is not unduly repetitious.

(c) Except where the arbitrator finds it impracticable, an original and two copies of each exhibit shall be filed at the time the exhibit is offered into evidence and a copy shall be furnished to each party. A true copy of an exhibit may be substituted for the original.

(d) Official notice may be taken of any matter judicially noticed in the Federal courts. The parties shall be given adequate opportunity to show that such facts are erroneously noticed.

Sec. 26—Order of Proceedings

(a) Hearing shall be opened by the filing of the oath of the arbitrator, and by the recording of the place, time and date of the hearing, the presence of the arbitrator, parties, and counsel.

(b) The arbitrator may, at the beginning of the hearing, ask for statements clarifying the issues involved. The claimant shall then present his claim and proofs and his witnesses. The respondent shall then present his response and proofs and his witnesses. The arbitrator may in his descretion vary this procedure but he or she shall afford full and equal opportunity to all parties for the presentation of any material or relevant proofs.

Sec. 28—Burden of Presentation; Burden of Persuasion

The claimant shall have the burden of going forward to establish his entitlement to an amount of compensation that respondent should pay for use of the test data relied upon. Each matter of controversy shall be decided by the arbitrator upon a preponderance of the evidence.

Sec. 29—Stenographic Record

Any party may request a stenographic record by making arrangements for same through the AAA. If such transcript is agreed by the parties to be, or in appropriate cases determined by the arbitrator to be, the official record of the proceeding, it must be made available to the arbitrator, and to the other party for inspection, at a time and place determined by the arbitrator. The total cost of such a record shall be shared equally by those parties that order copies.

Sec. 30—Filing of Briefs, Proposed Findings of Fact and Conclusions of Law, and Proposed Order

Unless otherwise ordered by the arbitrator, each party may within thirty days after delivery of the transcript of a hearing to the arbitrator as provided in Section 29, file with AAA and serve upon all other parties a brief together with references to relevant exhibits and the record. Within Fifteen days thereafter each party may file a reply brief concerning matters contained in the opposing brief. Oral argument may be had at the discretion of the arbitrator.

Sec. 31—Closing of Hearings

The Arbitrator shall inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the arbitrator shall declare the hearings closed and the time and date shall be recorded. If briefs or other documents are to be filed, the hearings shall be declared closed as of the final date set by the arbitrator for filing with the AAA. The time limit within which the Arbitrator is required to make the award shall commence to run, in the absence of other agreement by the parties, upon the closing of the hearings.

Sec. 32—Arbitrators' Decision

(a) The arbitrator shall as soon as practicable after the filing of briefs evaluate the record and prepare and file a decision. The decision shall contain findings of fact and conclusions regarding all issues in dispute as well as reasons therefore.

(b) The decision shall contain a determination as to the compensation, if any respondent must pay to claimant, or other remedy as appropriate, the method of payment, and may fix such other terms and conditions as may be reasonable under the circumstances, including the furnishing of a bond or other guarantee of payment by the respondent to the claimant.

Sec. 33—Reopening of Hearings

(a) The hearings may be reopened by the arbitrator on his or her own motion, or upon application of a party at any time before the award is made. If the reopening of the hearings would prevent the making of the award within the specific time agreed upon by the parties in the contract out of which the controversy has arisen, the matter may not be reopened, unless the parties agree upon the extension of such time limit. When no specific date is fixed, the arbitrator may reopen the hearings, and the arbitrator shall have thirty days from the closing of the reopened hearings within which to make an award.

(b) A motion to reopen a hearing to take further evidence, to rehear or reargue any matter related to such proceeding, or to reconsider the arbitrator's decision, must be made by motion in writing to the arbitrator in accordance with these Rules of Procedure. Every such motion must state the specific grounds upon which relief is sought.

(c) A motion to reopen a hearing for the purpose of taking further evidence may be filed at any time prior to the issuance of the arbitrator's decision. Such motion shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not cumulative, and shall set forth a good reason why such evidence was not adduced at a hearing.

(d) Motions to modify the arbitrator's decision shall be filed within 30 days after the date of service of the decision. Such motion must state specifically one of the following grounds for modification:

1. There was a miscalculation of figures or a mistake in the description of any person, thing or property referred to in the award; or

2. The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or

3. The award is imperfect in a matter of form, not affecting the merits of the controversy.

Sec. 34—Award Upon Settlement

If the parties settle their dispute during the course of the arbitration, the arbitrator, upon their request, may set forth the terms of the agreed settlement in an award.

Sec. 35—Delivery of Award to Parties

Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the AAA, addressed to such party at his last known address or to his attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.

Sec. 36—Release of Documents for Judicial Proceedings

The AAA shall, upon the written request of a party, furnish to such party, at his or her expense, certified facsimiles of any papers in the AAA's possession that may be required in

judicial proceedings relating to the arbitration.

Sec. 37—Application to Court

(a) No judicial proceedings by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate.

(b) Neither the AAA nor FMCS is a necessary party in judicial proceedings relating to the arbitration.

(c) Parties to these Rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any Federal or State Court having jurisdiction thereof.

Sec. 38—Administrative Fees

As a nonprofit organization, the AAA shall prescribe an administrative fee schedule and a refund schedule to compensate it for the cost of providing administrative services. The schedule in effect at the time of filing or the time of refund shall be applicable.

The administrative fees shall be advanced by the initiating party or parties, subject to final appointment by the arbitrator in his award.

When a matter is withdrawn or settled, the refund shall be made in accordance with the refund schedule.

The AAA, in the event of extreme hardship on the part of any party, may defer or reduce the administrative fee.

Sec. 39—Fee When Oral Hearings Are Waived

Where all oral hearings are waived the Administrative Fee Schedule shall apply.

Sec. 40—Expenses

The expenses of witnesses for either side shall be paid by the party producing such witnesses.

The cost of the stenographic record, if any is made, and all transcripts thereof, shall be prorated equally among all parties ordering copies unless they shall otherwise agree and shall be paid for by the responsible parties directly to the reporting agency.

All other expenses of the arbitration, including required traveling and other expenses of the arbitrator and of AAA representatives, and the expenses of any witness or the cost of any proofs produced at the direct request of the arbitrator, shall be borne equally by the parties.

Sec. 41—Arbitrator's Fee

Any arrangement for the compensation of a neutral arbitrator shall be made through the AAA and not directly by him or her with the parties. Where parties cannot agree, AAA shall fix reasonable compensation.

Sec. 42—Deposits

The AAA may require the parties to deposit in advance such sums of money as it deems necessary to defray the expense of the arbitration, including the arbitrator's fee if any, and shall render an accounting to the parties and return any unexpened balance.

Sec. 43—Interpretation and Application of Rules

The arbitrator shall interpret and apply these Rules insofar as they relate to his or her powers and duties. When there is more than one arbitrator and a difference arises among them concerning the meaning or application of any such Rules, it shall be decided by a majority vote. If that is unobtainable, either an arbitrator or a party may refer the question to the AAA for decision. All other Rules shall be interpreted and applied by the AAA. Either party may request that FMCS review any decision of AAA on interpretation or application of these rules.

Administrative Fee Schedule

The administrative fee of the AAA is based upon the amount of each claim and counterclaim as disclosed when the claim and counterclaim are filed, and is due and payable at the time of filing.

Amount of claim	Fee
Up to $25,000	$500.
$25,000 to $100,000	$600, plus 1% of excess over $25,000.
$100,000 to $200,000	$1350, plus ½% of excess over $100,000.
$200,000 to $5,000,000	$1850, plus ¼% of excess over $200,000.

Where the claim or counter claim exceeds $5 million, an appropriate fee will be determined by the AAA.

When no amount can be stated at the time of filing, the administrative fee is $500, subject to adjustment in accordance with the above schedule as soon as an amount can be disclosed.

If there are more than two parties represented in the arbitration, an additional 10% of the initiating fee will be due for each additional represented party.

Other Service Charges—$50.00 payable by a party causing an adjournment of any scheduled hearing;

$100 payable by a party causing a second or additional adjournment of any scheduled hearing.

$25.00 payable by each party for each hearing after the first hearing which is either clerked by the AAA or held in a hearing room provided by the AAA.

Refund Schedule—If the AAA is notified that a case has been settled or withdrawn before a list of Arbitrators has been sent out, all the fees in excess of $500 will be refunded.

If the AAA is notified that a case has been settled or withdrawn thereafter but before the due date for the return of the first list, two-thirds of the fee in excess of $500.00 will be refunded.

If the AAA is notified that a case is settled or withdrawn thereafter but at least 48 hours before the date and time set for the first hearing, one-half of the fee in excess of $500 will be refunded.

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Part VIII

Nuclear Regulatory Commission

Emergency Planning; Final Regulations

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 70

Emergency Planning

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is upgrading its emergency planning regulations in order to assure that adequate protective measures can and will be taken in the event of a radiological emergency. Nuclear power plants and certain other licensed facilities are required to submit their emergency plans, together with the emergency response plans of State and local governments, to the Commission. The Commission and the Federal Energy Management Agency will review the plans for adequacy. The amendment also extends emergency planning considerations to "Emergency Planning Zones", and makes additional clarifications.

EFFECTIVE DATE: November 3, 1980.

Note.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of the reporting requirements in the rule, pursuant to the Federal Reports Act, as amended (44 U.S.C. 3512). The date on which the reporting requirements of the rule become effective includes a 45-day period, which the statute allows for Comptroller General review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT: Mr. Michael T. Jamgochian, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (telephone: 301–443–5966).

SUPPLEMENTARY INFORMATION: On September 19, 1979 and on December 19, 1979, the Commission published for public comment (44 FR 54308 and 44 FR 75167) proposed amendments to its emergency planning regulations for production and utilization facilities. Extensive comments were received, all of which were evaluated and considered in developing the final rule. The comments received and the staff's evaluation is contained in NUREG–0684. In addition, the NRC conducted four Regional Workshops to solicit comments; these comments are available in NUREG/CP–0011 (April 1980).[1]

The final regulation contains the following elements:

1. In order to continue operations or to receive an operating license an applicant/licensee will be required to submit its emergency plans, as well as State and local governmental emergency response plans, to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the licensee's/applicant's emergency plans are adequate and capable of being implemented. These issues may be raised in NRC operating license hearings, but a FEMA finding will constitute a rebuttable presumption on the question of adequacy,

2. Emergency planning considerations will be extended to "Emergency Planning Zones,"

3. Detailed emergency plan implementing proceudres of licensees/applicants will be required to be submitted to NRC for review, and

4. Requirements in 10 CFR Part 50, Appendix E are clarified and upgraded.

Background

In June 1979, the Nuclear Regulatory Commission began a formal reconsideration of the role of emergency planning in ensuring the continued protection of the public health and safety in areas around nuclear power facilities. The Commission began this reconsideration in recognition of the need for more effective emergency planning and in response to the TMI accident and to reports issued by responsible offices of government and the NRC's Congressional oversight committees.

On December 19, 1979, the Nuclear Regulatory Commission published in the **Federal Register** (44 FR 75167) proposed amendments to 10 CFR Part 50 and Appendix E to Part 50 of its regulations. Publication of these final rule changes in the **Federal Register** is not only related to the December 19, 1979 proposed rule changes but also incorporates the proposed changes to 10 CFR Parts 50 and 70 (44 FR 54308) published on September 19, 1979. Interested persons were invited to submit written comments/suggestions in connection with the proposed amendments within 60 days after publication in the **Federal Register**. During this comment period (in January 1980) the Commission conducted four regional workshops with State and local officials, utility representatives, and the public to discuss the feasibility of the various portions of the proposed amendments, their impact, and the procedures proposed for complying with their provisions. The NRC used the information from these workshops along with the public comment letters to develop the final rule (more than 200 comment letters and the points made in two petitions for rulemaking were also considered).

In addition to the above, on June 25, 1980, the Commission was briefed by three panels of public commenters on the rule, one each comprised of representatives from the industry, State and local governments, and public interest groups. Each panel raised important concerns regarding the final rule. On July 3, 1980, the Commission was briefed by its staff in response to these panels, including several modifications to the proposed final rules. Finally, on July 23, 1980, at the final Commission consideration of these rules, the Commission was briefed by the General Counsel on the substance of conversations with Congressional staff members who were involved with passage of the NRC Authorization Act for fiscal year 1980, Pub. L. No. 96–295. The General Counsel advised the Commission that the NRC final rules were consistent with that Act. The Commission has relied on all of the above information in its consideration of these final rules. In addition, the Commission directs that the transcripts of these meetings shall be part of the administrative record in this rulemaking. However, the transcripts have not been reviewed for accuracy and, therefore, are only an informal record of the matters discussed.

After evaluating all public comment letters received and all the information obtained during the workshops as well as additional reports such as the Presidential Commission and the NRC Special Inquiry Group Reports, the Commission has decided to publish the final rule changes described below.

Description of Final Rule Changes

The Commission has decided to adopt a version of the proposed rules similar to alternative A described in Sections 50.47 and 50.54 in the **Federal Register** Notice dated December 19, 1979 (44 FR 75167), as modified in light of comments. These rules are consistent with the

[1] Copies of NUREG documents are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

approach outlined by FEMA and NRC in a Memorandum of Understanding (45 FR 5847, January 24, 1980). No new operating license will be granted unless the NRC can make a favorable finding that the integration of onsite and offsite emergency planning provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. In the case of an operating reactor, if it is determined that there are such deficiencies that a favorable NRC finding is not warranted and if the deficiencies are not corrected within 4 months of that determination, the Commission will determine expeditiously whether the reactor should be shut down or whether some other enforcement action is appropriate, pursuant to procedures provided for in 10 CFR 2.200–2.206. In any case where the Commission believes that the public health, safety, or interest so requires, the plant will be required to shut down immediately (10 CFR 2.202(f), see 5 U.S.C. 558(c)).

The standards that the NRC will use in making its determinations under these rules are set forth in the final regulation. Wherever possible, these standards may blend with other emergency planning procedures for nonnuclear emergencies presently in existence. The standards are a restatement of basic NRC and now joint NRC–FEMA guidance to licensees and to State and local governments. See NUREG–0654; FEMA–REP–1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," (January 1980). In deciding whether to permit reactor operation in the face of some deficiencies, the Commission will examine among other factors whether the deficiencies, are significant for the reactor in question, whether adequate interim compensatory actions have been or will be taken promptly, or whether other compelling reasons exist for reactor operation. In determining the sufficiency of "adequate interim compensatory actions" under this rule, the Commission will examine State plans, local plans, and licensee plans to determine whether features of one plan can compensate for deficiencies in another plan so that the level of protection for the public health and safety is adequate. This interpretation is consistent with the provisions of the NRC Authorization Act for fiscal year 1980, Pub. L. 96–295.

The regulation contains the following three major changes from past practices:

1. In order to continue operations or to recieve an operating license, an applicant/licensee will be required to submit its emergency plans, as well as State and local governmental emergency response plans, to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

The NRC will base its finding on a review of the FEMA findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the applicant's/licensee's emergency plans are adequate and capable of being implemented. In any NRC licensing proceeding, a FEMA finding will consitute a rebuttable presumption on the question of adequacy. Specifically:

a. An operating license will not be issued unless a favorable NRC overall finding can be made.

b. After April 1, 1981, an operating plant may be required to shut down if it is determined that there are deficiencies such that a favorable NRC finding cannot be made or is no longer warranted and the deficiencies are not corrected within 4 months of that determination.

2. Emergency planning considerations must be extended to "Emergency Planning Zones," and

3. Detailed emergency planning implementing procedures of both licensees and applicants for operating licenses must be submitted to NRC for review.

In addition, the Commission is revising 10 CFR Part 50, Appendix E, "Emergency Plans for Production and Utilization Facilities," in order to clarify, expand, and upgrade the Commission's emergency planning regulations. Sections of Appendix E that are expanded include:

1. Specification of "Emergency Action Levels" (Sections IV.B and C)

2. Dissemination to the public of basic emergency planning information (Section IV.D)

3. Provisions for the State and local governmental authorities to have a capability for rapid notification of the public during a serious reactor emergency, with a design objective of completing the initial notification within 15 minutes after notification by the licensee (Section IV.D)

4. A licensee onsite technical support center and a licensee near site emergency operations facility (Section IV.E)

5. Provisions for redundant communications systems (Section IV.E)

6. Requirement for specialized training (Section IV.F)

7. Provisions for up-to-date plan maintenance (Section IV.G)

Applicants for a construction permit would be required to submit more information as required in the new Section II of Appendix E.

Rationale for the Final Rules

The Commission's final rules are based on the significance of adequate emergency planning and preparedness to ensure adequate protection of the public health and safety. It is clear, based on the various official reports described in the proposed rules (44 FR 75169) and the public record compiled in this rulemaking, that onsite and offsite emergency preparedness as well as proper siting and engineered design features are needed to protect the health and safety of the public. As the Commission reacted to the accident at Three Mile Island, it became clear that the protection provided by siting and engineered design features must be bolstered by the ability to take protective measures during the course of an accident. The accident also showed clearly that onsite conditions and actions, even if they do not cause significant offsite radiological consequences, will affect the way the various State and local entities react to protect the public from any dangers associated with the accident. In order to discharge effectively its statutory responsibilities, the Commission must know that proper means and procedures will be in place to assess the course of an accident and its potential severity, that NRC and other appropriate authorities and the public will be notified promptly, and that adequate protective actions in response to actual or anticipated conditions can and will be taken.

The Commission's organic statutes provide it with a unique degree of discretion in the execution of agency functions. *Siegel* v. *AEC*, 400 F.2d 778, 783 (D.C. Cir. 1968), see *Westinghouse Electric Corp.* v. *NRC*, 598 F.2d 759, 771 & n.47 (3d Cir. 1979). "Both the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974 confer broad regulatory functions on the Commission and specifically authorize it to promulgate rules and regulations it deems necessary to fulfill its responsibilities under the Acts, 42 U.S.C. § 2201(p)." *Public Service Co. of New Hampshire* v. *NRC*, 582 F.2d 77, 82 (1st Cir.), *cert. denied*, 439 U.S. 1046 (1978). *See* 42 U.S.C. 2133(a). As the Supreme Court stated almost 20 years ago, the Atomic Energy Act "clearly contemplates that the Commission shall

by regulation set forth what the public safety requirements are as a prerequisite to the issuance of any license or permit under the Act," *Power Reactor Development Co.* v. *International Union of Electrical Radio Machine Workers,* 367 U.S. 396, 404 (1961). Finally, it is also clear that "Congress, when it enacted [42 U.S.C. 2236] . . . ., must have envisioned that licensing standards, especially in the areas of health and safety regulation, would vary over time as more was learned about the hazards of generating nuclear energy. Insofar as those standards became more demanding, Congress surely would have wanted the new standards, if the Commission deemed it appropriate, to apply to those nuclear facilities already licensed," *Ft. Pierce Utilities Authority* v. *United States,* 606 F.2d 986, 996 (D.C. Cir. 1979).

In response to and guided by the various reports and public comments, as well as its own determination on the significance of emergency preparedness, the Commission has therefore concluded that adequate emergency preparedness is an essential aspect in the protection of the public health and safety. The Commission recognizes there is a possibility that the operation of some reactors may be affected by this rule through inaction of State and local governments or an inability to comply with these rules. The Commission believes that the potential restriction of plant operation by State and local officials is not significantly different in kind or effect from the means already available under existing law to prohibit reactor operation, such as zoning and land-use laws, certification of public convenience and necessity, State financial and rate considerations (10 CFR 50.33(f)), and Federal environmental laws. The Commission notes, however, that such considerations generally relate to a one-time decision on siting, whereas this rule requires a periodic renewal of State and local commitments to emergency preparedness. Relative to applying this rule in actual practice, however, the Commission need not shut down a facility until all factors have been thoroughly examined. The Commission believes, based on the record created by the public workshops, that State and local officials as partners in this undertaking will endeavor to provide fully for public protection.

Summary of Comments on Major Issues

The Commission appreciates the extensive public comments on this important rule. In addition to the record of the workshops, the NRC has received over 200 comment letters on the proposed rule changes. The following major issues have been raised in the comments received.

Issue A: NRC Review and Concurrence in State and Local Radiological Plans

1. FEMA is best suited to assess the adequacy of State and local radiological emergency planning and preparedness and report any adverse findings to NRC for assessment of the licensing consequences of those findings.

2. The proposed rule fails to provide objective standards for NRC concurrence, reconcurrence, and withdrawal of concurrence.

3. In the absence of additional statutory authority, the proposed rule frustrates Congressional intent to preempt State and local government veto power over nuclear power plant operation.

4. Procedures and standards for adjudication of emergency planning disputes are not adequately specified in the proposed rule.

Issue B: Emergency Planning Zones (EPZs)

1. Regulatory basis for imposition of the Emergency Planning Zone concept should be expressly stated in the regulation.

2. Provisions regarding the plume exposure pathway EPZ should provide a maximum planning distance of 10 miles.

3. References to NUREG–0396 should be deleted to avoid disputes over its meaning in licensing proceedings.

Issue C: Alternative A and B (in 50.47 and 50.54)

1. Neither alternative is necessary because the Commission has sufficient authority to order a plant shut down for safety reasons and should be prepared to exercise that authority only on a case-by-case basis and when a particular situation warrants such action.

2. No case has been made by the Commission for the need for automatic shutdown, as would be required in alternative B, and certainly no other NRC regulations exist that would require such action based on a concept as amorphous as "concurrence in State and local emergency plans."

3. The idea that the Commission might grant an exemption to the rules that would permit continued operation (under alternative B) has little significance, primarily because 10 CFR Part 50.12(a) already permits the granting of exemptions.

4. The process and procedures for obtaining such exemptions are not defined, nor is there any policy indication that would indicate the Commission's disposition to grant such exemptions.

5. The Commission, in developing this aspect of the proposed rule, must consider its own history. There was time when regulation was characterized by the leaders of the agency by simple and very appropriate expressions. The process was to be "effective and efficient." The application of regulatory authority was to be "firm, but fair." Regardless of the outcome of the "concurrence" issue, the Commission must appreciate that alternative B is not fair. It is not effective regulation.

Issue D: Public Education

Only information required to inform the public about what to do in the event of a radiological emergency need be disseminated. There should be flexibility, in any particular case, as to who will be ultimately responsible for disseminating such information.

Issue E: Legal Authority

1. A few commenters felt that NRC had no authority to promulgate a rule as the one proposed.

2. Other comments were the nature that NRC has statutory authority only inside the limits of the plant site.

3. Some commenters suggested that NRC and FEMA should seek additional legislation to compel State and local governments to have emergency plans, if that is what is necessary.

Issue F: Schedule for Implementation

The schedule for implementing the proposed rule was considered to be unrealistic and in some cases in conflict with various State schedules already in existence. A sampling of the comments on the implementation schedule follows:

1. The 180 days in the schedule is an insufficient amount of time to accomplish tasks of this magnitude; the Federal government does not work with such speed. States are bureaucracies also; there is no reason to assume they can work faster. It took years of working with States to get the plans that are presently concurred in. It is just insufficient time for new concurrences and review. Also, to get a job done within that time frame means a hurried job, rather than an acceptable and meaningful plan.

2. The time provided is inadequate for States to acquire the hardware needed. States must go out for competitive bids just as the Federal government does. Between processing and accepting a bid and actual delivery of equipment, it may take a year to get the hardware. The State budgets years ahead; therefore, if a State or local government needs more money, it may have to go to the

legislature. This is a time-consuming public process that may not fit the Federal schedule.

3. NRC and FEMA could not review 70 or more plans and provide concurrence by January 1, 1981. The Federal government moves slowly. Commenters did not think that NRC and FEMA can review all the plans within the time frame scheduled. If the Federal government cannot meet its schedule, why or how should the States?

4. Funding could not be appropriated by State and local governments before the deadline. It was suggested that the Commission use H. Rept. #96–413, "Emergency Planning U.S. Nuclear Power Plants: Nuclear Regulatory Commission Oversight," for the time frame rather than that in the proposed rule or use a sliding-scale time frame since States are at various stages of completing their emergency plans.

Issue G: Impact of Proposed Rule

1. The proposed regulations were considered by some commenters as unfair to utilities because it was felt they place the utilities in the political and financial role that FEMA should be assuming. NRC is seen as in effect giving State and local governments veto over the operation of nuclear plants. It was questioned whether this was an intent of the rule. In addition, it was felt that utilities, their customers, and their shareholders should not be penalized by a shutdown (with a resulting financial burden) because of alleged deficiencies or lack of cooperation by State and local officials.

2. It was suggested that NRC's Office of Inspection and Enforcement conduct the reviews of the State and local governmental emergency response plans in order to ensure prompt, effective, and consistent implementation of the proposed regulations.

3. One commenter noted that the public should be made aware of the issue of intermediate and long-term impacts of plant shutdowns. Specifically, people should be informed of the possibility of "brownouts," cost increases to the consumer due to securing alternative energy sources, and the health and safety factors associated with those alternative sources.

Issue H: Public Notification

1. Ultimate responsibility for public notification of a radiological emergency must be placed on State and local government.

2. The "fifteen minute" public notification rule is without scientific justification, fails to differentiate between areas close in and further away from the site, and ignores the technical difficulties associated with such a requirement.

Issue I: Emergency Action Levels

Applicants, in cooperation with State and local governmental authorities, should be permitted the necessary flexibility to develop emergency action level criteria appropriate for the facility in question, subject to NRC approval. Inflexible NRC emergency action level standards are not necessary.

Issue J: Training

1. Mandatory provision for training local service personnel and local news media persons is outside of NRC's jurisdiction and is not necessary to protect the public health and safety.

2. Public participation in drills or critiques thereof should not be required.

3. The provision regarding formal critiques should be clarified to mean the licensee is responsible for developing and conducting such critiques.

4. Definitive performance criteria for evaluation of drills should be developed by the licensee, subject to NRC approval.

Issue K: Implementing Procedures

NRC review of implementing procedures is only necessary to apprise the NRC staff of the details of the plans for use by the NRC during the course of an actual emergency.

Issue L: Funding

1. Nuclear facilities, although located in one governmental tax jurisdiction and taxed by that jurisdiction, affect other jurisdictions that must bear immediate and long-term planning costs without having access to taxes from the facility.

2. As the radius of planning requirements becomes greater, few facilities are the concern of a single county. The planning radius often encompasses county lines, State lines, and in some instances, international boundaries.

3. As new regulations are generated to oversee the nuclear industry and old ones expanded, there is an immediate need to address fixed nuclear facility planning at all levels of government, beginning at the lowest and going to the highest. All levels of government need access to immediate additional funds to upgrade their response capability.

4. It is well understood that the consumer ultimately must pay the price for planning, regardless of the level in government at which costs are incurred. It becomes a matter of how the consumer will be taxed, who will administer the tax receipts, and what is the most effective manner in which to address the problem.

5. The basis for effective offsite response capabilities is a sound emergency preparedness program. Federal support (funding and technical assistance) for the development of State and local offsite capabilities should be incorporated into FEMA's preparedness program for all emergencies.

Issue M: General

The States support Federal oversight and guidance in the development of offsite response capabilities. However, many States feel the confusion and uncertainty in planning requirements following Three Mile Island is not a proper environment in which to develop effective capabilities nor does it serve the best interests of their citizens. The development of effective nuclear facility incident response capabilities will require close coordination and cooperation among responsible Federal agencies, State government, and the nuclear industry. An orderly and comprehensive approach to this effort makes it necessary that onsite responsibilities be clearly associated with NRC and the nuclear industry while deferring offsite responsibilities to State government with appropriate FEMA oversight and assistance.

In addition to these comments, two petitions for rulemaking were filed in reference to the proposed rule. These were treated as public comments rather than petitions and were considered in developing the final rule.

The Commission has placed the planning objectives from NUREG–0654; FEMA–REP–1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," January 1980, into the final regulations. Comments received concerning NUREG–0654 were available in developing the final regulation. The Commission notes that the planning objectives in NUREG–0654 were largely drawn from NUREG–75/111, "Guide and Checklist for Development and Evaluation of State and Local Government Radiological Emergency Response Plans in Support of Fixed Nuclear Facilities," (December 1, 1974) and Supplement 1 thereto dated March 15, 1977, which have been in use for some time.

The approximately 60 public comment letters received on NUREG–0654 were not critical of the proposed planning objectives. The Commission also notes that at the May 1, 1980 ACRS meeting, the Atomic Industrial Forum representative encouraged the use of the planning objectives from NUREG–0654 in the final regulations in order to

reduce ambiguity and provide specificity to the final regulation.

Based on the above, the Commission has decided to modify the proposed rule changes in the areas discussed in paragraphs I through X below.

I. FEMA/NRC Relationship

In issuing this rule, NRC recognizes the significant responsibilities assigned to FEMA, by Executive Order 12148 on July 15, 1979, to coordinate the emergency planning functions of executive agencies. In view of FEMA's new role, NRC agreed on September 11, 1979, that FEMA should henceforth chair the Federal Interagency Central Coordinating Committee for Radiological Emergency Response Planning and Preparedness (FICCC). On December 7, 1979, the President issued a directive assigning FEMA lead responsibility for offsite emergency preparedness around nuclear facilities. The NRC and FEMA immediately initiated negotiations for a Memorandum of Understanding (MOU) that lays out the agencies' roles and provides for a smooth transfer of responsibilities. It is recognized that the MOU, which became effective January 14, 1980, supersedes some aspects of previous agreements. Specifically, the MOU identifies FEMA responsibilities with respect to emergency preparedness as they relate to NRC as the following:

1. To make findings and determinations as to whether State and local emergency plans are adequate.

2. To verify that State and local emergency plans are capable of being implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualification, and equipment).

3. To assume responsibility for emergency preparedness training of State and local officials.

4. To develop and issue an updated series of interagency assignments that delineate respective agency capabilities and responsibilities and define procedures for coordination and direction for emergency planning and response.

Specifically, the NRC responsibilities for emergency preparedness identified in the MOU are:

1. To assess licensee emergency plans for adequacy.

2. To verify that licensee emergency plans are adequately implemented (e.g., adequacy and maintenance of procedures, training, resources, staffing levels and qualifications, and equipment).

3. To review the FEMA findings and determinations on the adequacy and capability of implementation of State and local plans.

4. To make decisions with regard to the overall state of emergency preparedness (i.e., integration of the licensee's emergency preparedness as determined by the NRC and of the State/local governments as determined by FEMA and reviewed by NRC) and issuance of operating licenses or shutdown of operating reactors.

In addition, FEMA has prepared a proposed rule regarding "Review and Approval of State Radiological Emergency Plans and Preparedness" (44 FR 42342, dated June 24, 1980). According to the proposed FEMA rule, FEMA will approve State and local emergency plans and preparedness, where appropriate, based upon its findings and determinations with respect to the adequacy of State and local plans and the capabilities of State and local governments to effectively implement these plans and preparedness measures. These findings and determinations will be provided to the NRC for use in its licensing process.

II. Emergency Planning Zone Concept

The Commission notes that the regulatory basis for adoption of the Emergency Planning Zone (EPZ) concept is the Commission's decision to have a conservative emergency planning policy in addition to the conservatism inherent in the defense-in-depth philosophy. This policy was endorsed by the Commission in a policy statement published on October 23, 1979 (44 FR 61123). At that time the Commission stated that two Emergency Planning Zones (EPZs) should be established around each light-water nuclear power plant. The EPZ for airborne exposure has a radius of about 10 miles; the EPZ for contaminated food and water has a radius of about 50 miles. Predetermined protective action plans are needed for the EPZs. The exact size and shape of each EPZ will be decided by emergency planning officials after they consider the specific conditions at each site. These distances are considered large enough to provide a response base that would support activity outside the planning zone should this ever be needed.

III. Position on Planning Basis for Small Light-Water Reactors and Ft. St. Vrain

The Commission has concluded that the operators of small light-water-cooled power reactors (less than 250 MWt) and the Ft. St. Vrain gas-cooled reactor may establish smaller planning zones which will be evaluated on a case-by-case basis. This conclusion is based on the lower potential hazard from these facilities (lower radionuclide inventory and longer times to release significant amounts of activity in many scenarios). Guidance regarding the radionuclides to be considered in planning is set forth in NUREG–0396; EPA 520/1–78–016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light-Water Nuclear Power Plants," December 1978.

IV. Rationale for Alternatives Chosen

In a few areas of the proposed rule, the Commission identified two alternatives that it was considering. Many public comments were received on these alternatives; based on due consideration of all comments received as well as the discussions presented during the workshops, the Commission has determined which of each pair of alternatives to retain in the final rule.

In Sections 50.47 and 50.54 (s) and (t), the alternatives dealth with conditioning the issuance of an operating license or continued operation of a nuclear power plant on the existence of State and local government emergency response plans concurred in by NRC.* The basic difference between alternatives A and B in these sections was that, under alternative A, the proposed rule would require a determination by NRC on issuing a license or permitting continued operation of plants in those cases where relevant State and local emergency response plans had not received NRC concurrence. Denial of a license or shutdown of a reactor would not follow automatically in every case. Under alternative B, shutdown of the reactor would be required automatically if the appropriate State and local emergency response plans had not received NRC concurrence within the prescribed time periods unless an exemption is granted.

After consideration of the public record and on the recommendation of its staff, the Commission has chosen a text for Sections 50.47 and 50.54 (s) and (t) that is similar to, but less restrictive than, alternative A in the proposed rule. Rather than providing for the shutdown of the reactor as the only enforcement action and prescribing specific preconditions for the shutdown remedy, the final rule makes clear that for emergency planning rules, like all other rules, reactor shutdown as outlined in the rule is but one of a number of possible enforcement actions and many factors should be considered in determining whether it is an appropriate action in a given case. This Commission choice is consistent with most of the comments received from State and local

* See Section V for a discussion concerning "concurrence."

governments and is consistent with the provisions of Section 109 of the NRC fiscal year 1980 Authorization Act. Alternative B was seen by some of the commenters as potentially causing unnecessarily harsh economic and social consequences to State and local governments, utilities, and the public.

State and local governments that are directly involved in implementing planning objectives of the rule strongly favor alternative A since it provides for a cooperative effort with State and local governments to reflect their concerns and desires in these rules. This choice is responsive to that effort. In addition, the industry strongly supported alternative A as being the more workable of the two alternatives.

In Appendix E, Sections II.C and III, alternative A would require an applicant/licensee to outline ". . . corrective measures to prevent damage to onsite and offsite property," as well as protective measures for the public. Alternative B addresses only protective measures for the public health and safety. The Commission has chosen alternative B because public health and safety should take clear precedence over actions to protect property. Measures to protect property can be taken on an ad hoc basis as resources become available after an accident.

In Appendix E, under Training, alternative A would provide for a joint licensee, Federal, State, and local government exercise every 3 years, whereas alternative B would provide for these exercises to be performed every 5 years at each site. The Commission has chosen alternative B because the Commission is satisfied that the provision that these exercises be performed every 5 years for each site will allow for an adequate level of preparedness among Federal emergency response agencies. In addition, under these regulations, each licensee is required to exercise annually with local governmental authorities. Furthermore, Federal emergency response agencies may have difficulty supporting exercises every 3 years for all of the nuclear facilities that would be required to comply with these rule changes.

V. Definition of Plan Approval Process

The term "concurrence" has been deleted from the proposed regulations and replaced with reference to the actual procedure and standards that NRC and FEMA have agreed upon and are implementing. According to the agreed upon procedure, FEMA will make a finding and determination as to the adequacy of State and local government emergency response plans. The NRC will determine the adequacy of the licensee emergency response plans. After these two determinations have been made, NRC will make a finding in the licensing process as to the overall and integrated state of preparedness.

It was pointed out to the Commission at the workshops and in public comment letters that the term "concurrence" was confusing and ambiguous. Also, there was a great deal of misunderstanding with the use of the term because, in the past, the obtaining of NRC "concurrence" in State emergency response plans was voluntary on behalf of the States and not a regulatory requirement in the licensing process. Previously too, "concurrence" was statewide rather than site-specific.

VI. Fifteen-Minute Notification

The requirement for the capability for notification of the public within 15 minutes after the State/local authorities have been notified by the licensee has been expanded and clarified. It also has been removed as a footnote and placed in the body of Appendix E. The implementation schedule for this requirement has been extended to July 1, 1981. This extension of time has been adopted because most State and local governments identified to the Commission the difficulty in procuring hardware, contracting for installation, and developing procedures for operating the systems used to implement this requirement.

The Commission is aware that various commenters, largely from the industry, have objected to the nature of the 15-minute notification requirement, indicating that it may be both arbitrary and unworkable.

Among the possible alternatives to this requirement are a longer notification time, a notification time that varies with distance from the facility, or no specified time. In determining what that criterion should be, a line must be drawn somewhere, and the Commission believes that providing as much time as practicable for the taking of protective action is in the interest of public health and safety. The Commission recognizes that this requirement may present a significant financial impact and that the technical basis for this requirement is not without dispute. Moreover, there may never be an accident requiring using the 15-minute notification capability. However, the essential rationale behind emergency planning is to provide additional assurance for the public protection even during such an unexpected event. The 15-minute notification capability requirement is wholly consistent with that rationale.

The Commission recognizes that no single accident scenario should form the basis for choice of notification capability requirements for offsite authorities and for the public. Emergency plans must be developed that will have the flexibility to ensure response to a wide spectrum of accidents. This wide spectrum of potential accidents also reflects on the appropriate use of the offsite notification capability. The use of this notification capability will range from immediate notification of the public (within 15 minutes) to listen to predesignated radio and television stations, to the more likely events where there is substantial time available for the State and local governmental officials to make a judgment whether or not to activate the public notification system.

Any accident involving severe fuel degradation or core melt that results in significant inventories of fission products in the containment would warrant immediate public notification and consideration, based on the particular circumstances, of appropriate protective action because of the potential for leakage of the containment building. In addition, the warning time available for the public to take action may be substantially less than the total time between the original initiating event and the time at which significant radioactive releases take place. Specification of particular times as design objectives for notification of offsite authorities and the public are a means of ensuring that a system will be in place with the capability to notify the public to seek further information by listening to predesignated radio or television stations. The Commission recognizes that not every individual would necessarily be reached by the actual operation of such a system under all conditions of system use. However, the Commission believes that provision of a general alerting system will significantly improve the capability for taking protective actions in the event of an emergency. The reduction of notification times from the several hours required for street-by-street notification to minutes will significantly increase the options available as protective actions under severe accident conditions. These actions could include staying indoors in the case of a release that has already occurred or a precautionary evacuation in the case of a potential release thought to be a few hours away. Accidents that do not result in core melt may also cause relatively quick releases for which protective actions, at least for the public in the immediate plant vicinity, are desirable.

Some comments received on the proposed rule advocated the use of a staged notification system with quick notification required only near the plant. The Commission believes that the capability for quick notification within the entire plume exposure emergency planning zone should be provided but recognizes that some planners may wish to have the option of selectively actuating part of the system during an actual response. Planners should carefully consider the impact of the added decisions that offsite authorities would need to make and the desirability of establishing an official communication link to all residents in the plume exposure emergency planning zone when determining whether to plan for a staged notification capability.

VII. Effective Date of Rules and Other Guidance

Prior to the publication of these amendments, two guidance documents were published for public comment and interim use. These are NUREG–0610, "Draft Emergency Action Level Guidelines for Nuclear Power Plants," (September 1979) and NUREG–0654/FEMA–REP–1, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," (January 1980). It is expected that versions of these documents, revised on the basis of public comments received, will be issued to assist in defining acceptable levels of preparedness to meet this final regulation. In the interim, these documents should continue to be used as guidance.

VIII. Hearing Procedures Used in Implementation of These Regulations

Should the NRC believe that the overall state of emergency preparedness at and around a licensed facility is such that there is some question whether a facility should be permitted to continue to operate, the Commission may issue an order to the licensee to show cause, pursuant to 10 CFR 2.202, why the plant should not be shut down. This issue may arise, for example, if NRC finds a significant deficiency in a licensee plan or in the overall state of emergency preparedness.

If the NRC decides to issue an order to show cause, it will provide the licensee the opportunity to demonstrate to the Commission's satisfaction, for example, that the alleged deficiencies are not significant for the reactor in question, whether adequate interim compensating actions have been or will be taken promptly, or whether other compelling reasons exist for reactor operation. Finally, pursuant to 10 CFR 2.202(f), the Commission may, in appropriate circumstances, make the order immediately effective, which could result in immediate plant shutdown subject to a later hearing.

IX. Funding

In view of the requirements in these rule changes regarding the actions to be taken in the event State and local government planning and preparedness are or become inadequate, a utility may have an incentive, based on its own self interest as well as its responsibility to provide power, to assist in providing manpower, items of equipment, or other resources that the State and local governments may need but are themselves unable to provide. The Commission believes that in view of the President's Statement of December 7, 1979, giving FEMA the lead role in offsite planning and preparedness, the question of whether the NRC should or could require a utility to contribute to the expenses incurred by State and local governments in upgrading and maintaining their emergency planning and preparedness (and if it is to be required, the mechanics for doing so) is beyond the scope of the present rule change. It should be noted, however, that any direct funding of State or local governments solely for emergency preparedness purposes by the Federal government would come through FEMA.

X. Exercises

On an annual basis, all commercial nuclear power facilities will be required by NRC to exercise their plans; these exercises should involve exercising the appropriate local government plans in support of these facilities. The State may choose to limit its participation in exercises at facilities other than the facility (site) chosen for the annual exercise(s) of the State plan.

Each State and appropriate local government shall annually conduct an exercise jointly with a commercial nuclear power facility. However, States with more than one facility (site) shall schedule exercises such that each individual facility (site) is exercised in conjunction with the State and appropriate local government plans not less than once every 3 years for sites with the plume exposure pathway EPZ partially or wholly within the State, and not less than once every 5 years for sites with the ingestion exposure pathway EPZ partially or wholly within the State. The State shall choose, on a rotational basis, the site(s) at which the required annual exercise(s) is to be conducted; priority shall be given to new facilities seeking an operating license from NRC that have not had an exercise involving the State plan at that facility site.

The Commission has determined under the criteria in 10 CFR Part 51 that an environmental impact statement for the amendments to 10 CFR Part 50 and Appendix E thereof is not required. This determination is based on "Environmental Assessment for Final Changes to 10 CFR Part 50 and Appendix E of 10 CFR Part 50, Emergency Planning Requirements for Nuclear Power Plants" (NUREG–0685, June 1980). Comments on the "Draft Negative Declaration; Finding of No Significant Impact" (45 FR 3913, January 21, 1980) were considered in the preparation of NUREG–0685.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Sections 552 and 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 50 and 70, are published as a document subject to codification.

Part 50—Domestic Licensing of Production and Utilization Facilities

1. Paragraph (g) of Section 50.33 is revised to read as follows:

§ 50.33 Contents of applications; general information.

* * * * *

(g) If the application is for an operating license for a nuclear power reactor, the applicant shall submit radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within the plume exposure pathway Emergency Planning Zone (EPZ)[1], as well as the plans of State governments wholly or partially within the ingestion pathway EPZ.[2] Generally, the plume exposure pathway EPZ for nuclear power reactors shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power reactor shall be determined in relation to the local emergency response needs and

[1] Emergency Planning Zones (EPZs) are discussed in NUREG–0396, EPA 520/1–78–016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light-Water Nuclear Power Plants," December 1978.

[2] If the State and local emergency response plans have been previously provided to the NRC for inclusion in the facility docket, the applicant need only provide the appropriate reference to meet this requirement.

capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled reactors and for reactors with an authorized power level less than 250 MW thermal. The plans for the ingestion pathway shall focus on such actions as are appropriate to protect the food ingestion pathway.

2. A new § 50.47 is added.

§ 50.47 Emergency plans.

(a)(1) No operating license for a nuclear power reactor will be issued unless a finding is made by NRC that the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency.

(2) The NRC will base its finding on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented, and on the NRC assessment as to whether the applicant's onsite emergency plans are adequate and capable of being implemented. In any NRC licensing proceeding, a FEMA finding will constitute a rebuttable presumption on a question of adequacy.

(b) The onsite and offsite emergency response plans for nuclear power reactors must meet the following standards: [1]

(1) Primary responsibilities for emergency response by the nuclear facility licensee and by State and local organizations within the Emergency Planning Zones have been assigned, the emergency responsibilities of the various supporting organizations have been specifically established, and each principal response organization has staff to respond and to augment its initial response on a continuous basis.

(2) On-shift facility licensee responsibilities for emergency response are unambiguously defined, adequate staffing to provide initial facility accident response in key functional areas is maintained at all times, timely augmentation of response capabilities is available and the interfaces among various onsite response activities and offsite support and response activities are specified.

(3) Arrangements for requesting and effectively using assistance resources have been made, arrangements to accommodate State and local staff at the licensee's near-site Emergency Operations Facility have been made, and other organizations capable of augmenting the planned response have been identified.

(4) A standard emergency classification and action level scheme, the bases of which include facility system and effluent parameters, is in use by the nuclear facility licensee, and State and local response plans call for reliance on information provided by facility licensees for determinations of minimum initial offsite response measures.

(5) Procedures have been established for notification, by the licensee, of State and local response organizations and for notification of emergency personnel by all organizations; the content of initial and followup messages to response organizations and the public has been established; and means to provide early notification and clear instruction to the populace within the plume exposure pathway Emergency Planning Zone have been established.

(6) Provisions exist for prompt communications among principal response organizations to emergency personnel and to the public.

(7) Information is made available to the public on a periodic basis on how they will be notified and what their initial actions should be in an emergency (e.g., listening to a local broadcast station and remaining indoors), the principal points of contract with the news media for dissemination of information during an emergency (including the physical location or locations) are established in advance, and procedures for coordinated dissemination of information to the public are established.

(8) Adequate emergency facilities and equipment to support the emergency response are provided and maintained.

(9) Adequate methods, systems, and equipment for assessing and monitoring actual or potential offsite consequences of a radiological emergency condition are in use.

(10) A range of protective actions have been developed for the plume exposure pathway EPZ for emergency workers and the public. Guidelines for the choice of protective actions during an emergency, consistent with Federal guidance, are developed and in place, and protective actions for the ingestion exposure pathway EPZ appropriate to the locale have been developed.

(11) Means for controlling radiological exposures, in an emergency, are established for emergency workers. The means for controlling radiological exposures shall include exposure guidelines consistent with EPA Emergency Worker and Lifesaving Activity Protective Action Guides.

(12) Arrangments are made for medical services for contaminated injured individuals.

(13) General plans for recovery and reentry are developed.

(14) Periodic exercises are (will be) conducted to evaluate major portions of energency response capabilities, periodic drills are (will be) conducted to develop and maintain key skills, and deficiencies identified as a result of exercises or drills are (will be) corrected.

(15) Radiological emergency response training is provided to those who may be called on to assist in an emergency.

(16) Responsibilities for plan development and review and for distribution of emergency plans are established, and planners are properly trained.

(c)(1) Failure to meet the standards set forth in paragraph (b) of this subsection may result in the Commission declining to issue an Operating License; however, the applicant will have an opportunity to demonstrate to the satisfaction of the Commission that deficiencies in the plans are not significant for the plant in question, that adequate interim compensating actions have been or will be taken promptly, or that there are other compelling reasons to permit plant operation.

(2) Generally, the plume exposure pathway EPZ for nuclear power plants shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius. The exact size and configuration of the EPZs surrounding a particular nuclear power reactor shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled nuclear reactors and for reactors with an authorized power level less than 250 MW thermal. The plans for the ingestion pathway shall focus on such actions as are appropriate to protect the food ingestion pathway.

3. Section 50.54 is amended by adding five new paragraphs (q), (r), (s), (t), and (u).

§ 50.54 Conditions of licenses.

* * * * *

[1] These standards are addressed by specific criteria in NUREG-0654; FEMA-REP-1 entitled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants—For Interim Use and Comment" January 1980.

(q) A licensee authorized to possess and/or operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in § 50.47(b) and the requirements in Appendix E of this Part. A licensee authorized to possess and/or operate a research reactor or a fuel facility shall follow and maintain in effect emergency plans which meet the requirements in Appendix E of this Part. The nuclear power reactor licensee may make changes to these plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standards of § 50.47(b) and the requirements of Appendix E of this Part. The research reactor licensee and/or the fuel facility licensee may make changes to these plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E of this Part. Proposed changes that decrease the effectiveness of the approved emergency plans shall not be implemented without application to and approval by the Commission. The licensee shall furnish 3 copies of each proposed change for approval; and/or if a change is made without prior approval, 3 copies shall be submitted within 30 days after the change is made or proposed to the Director of the appropriate NRC regional office specified in Appendix D, 10 CFR Part 20, with 10 copies to the Director of Nuclear Reactor Regulation, or, if appropriate, the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(r) Each licensee who is authorized to possess and/or operate a research or test reactor facility with an authorized power level greater than or equal to 500 kW thermal, under a license of the type specified in § 50.21(c), shall submit emergency plans complying with 10 CFR Part 50, Appendix E, to the Director of Nuclear Reactor Regulation for approval within one year from the effective date of this rule. Each licensee who is authorized to possess and/or operate a research reactor facility with an authorized power level less than 500 kW thermal, under a license of the type specified in § 50.21(c), shall submit emergency plans complying with 10 CFR Part 50, Appendix E, to the Director of Nuclear Reactor Regulation for approval within two years from the effective date of this amendment.

(s)(1) Each licensee who is authorized to possess and/or operate a nuclear power reactor shall summit to NRC within 60 days of the effective date of this amendment the radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within a plume exposure pathway EPZ, as well as the plans of State governments wholly or partially within an ingestion pathway EPZ.[1, 2] Ten (10) copies of the above plans shall be forwarded to the Director of Nuclear Reactor Regulation with 3 copies to the Director of the appropriate NRC regional office. Generally, the plume exposure pathway EPZ for nuclear power reactors shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius. The exact size and configuration of the EPZs for a particular nuclear power reactor shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled nuclear reactors and for reactors with an authorized power level less than 250 MW thermal. The plans for the ingestion pathway EPZ shall focus on such actions as are appropriate to protect the food ingestion pathway.

(2) For operating power reactors, the licensee, State, and local emergency response plans shall be implemented by April 1, 1981, except as provided in Section IV.D.3 of Appendix E of this Part. If after April 1, 1981, the NRC finds that the state of emergency preparedness does not provide reasonable assurance that appropriate protective measures can and will be taken in the event of a radiological emergency and if the deficiencies are not corrected within four months of that finding, the Commission will determine whether the reactor shall be shut down until such deficiencies are remedied or whether other enforcement action is appropriate. In determining whether a shutdown or other enforcement action is appropriate, the Commission shall take into account, among other factors, whether the licensee can demonstrate to the Commission's satisfaction that the deficiencies in the plan are not significant for the plant in question, or that adequate interim compensating actions have been or will be taken promptly, or that there are other compelling reasons for continued operation.

(3) The NRC will base its finding on a review of the FEMA findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented, and on the NRC assessment as to whether the licensee's emergency plans are adequate and capable of being implemented. Nothing in this paragraph shall be construed as limiting the authority of the Commission to take action under any other regulation or authority of the Commission or at any time other than that specified in this paragraph.

(t) A nuclear power reactor licensee shall provide for the development, revision, implementation, and maintenance of its emergency preparedness program. To this end, the licensee shall provide for a review of its emergency preparedness program at least every 12 months by persons who have no direct responsibility for implementation of the emergency preparedness program. The review shall include an evaluation for adequacy of interfaces with State and local governments and of licensee drills, exercises, capabilities, and procedures. The results of the review, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and retained for a period of five years. The part of the review involving the evaluation for adequacy of interface with State and local governments shall be available to the appropriate State and local governments.

(u) Within 60 days after the effective date of this amendment, each nuclear power reactor licensee shall submit to the NRC plans for coping with emergencies that meet standards in § 50.47(b) and the requirements of Appendix E of this Part.

* * * * *

4. 10 CFR Part 50, Appendix E, is amended as follows:

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities[1]

Table of Contents

I. Introduction

[1] Emergency Planning Zones (EPZs) are discussed in NUREG–0396; EPA 520/1–78–016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants," December 1978.

[2] If the State and local emergency response plans have been previously provided to the NRC for inclusion in the facility docket, the applicant need only provide the appropriate reference to meet this requirement.

[1] NRC staff has developed two regulatory guides: 2.6, "Emergency Planning for Research Reactors," and 3.42, "Emergency Planning in Fuel Cycle Facilities and Plants Licensed Under 10 CFR Parts 50 and 70;" and a joint NRC/FEMA report, NUREG–0654; FEMA–REP–1, "Criteria for Preparation and

Footnotes continued on next page

II. The Preliminary Safety Analysis Report
III. The Final Safety Analysis Report
IV. Content of Emergency Plans
V. Implementing Procedures

I. Introduction

Each applicant for a construction permit is required by § 50.34(a) to include in the preliminary safety analysis report a discussion of preliminary plans for coping with emergencies. Each applicant for an operating license is required by § 50.34(b) to include in the final safety analysis report plans for coping with emergencies.

This appendix establishes minimum requirements for emergency plans for use in attaining an acceptable state of emergency preparedness. These plans shall be described generally in the preliminary safety analysis report and submitted as a part of the final safety analysis report.

The potential radiological hazards to the public associated with the operation of research and test reactors and fuel facilities licensed under 10 CFR Parts 50 and 70 involve considerations different than those associated with nuclear power reactors. Consequently, the size of Emergency Planning Zones [2] (EPZs) for facilities other than power reactors and the degree to which compliance with the requirements of this Section and Sections II, III, IV, and V as necessary will be determined on a case-by-case basis.[3]

II. The Preliminary Safety Analysis Report

The Preliminary Safety Analysis Report shall contain sufficient information to ensure the compatibility of proposed emergency plans for both onsite areas and the EPZs, with facility design features, site layout, and site location with respect to such considerations as access routes, surrounding population distributions, land use, and local jurisdictional boundaries for the EPZs in the case of nuclear power reactors as well as the means by which the standards of § 50.47(b) will be met.

As a minimum, the following items shall be described:

A. Onsite and offsite organizations for coping with emergencies and the means for notification, in the event of an emergency, of persons assigned to the emergency organizations.

B. Contacts and arrangements made and documented with local, State, and Federal governmental agencies with responsibility for coping with emergencies, including identification of the principal agencies.

C. Protective measures to be taken within the site boundary and within each EPZ to protect health and safety in the event of an accident; procedures by which these measures are to be carried out (e.g., in the case of an evacuation, who authorizes the evacuation, how the public is to be notified and instructed, how the evacuation is to be carried out); and the expected response of offsite agencies in the event of an emergency.

(D) Features of the facility to be provided for onsite emergency first aid and decontamination and for emergency transportation of onsite individuals to offsite treatment facilities.

E. Provisions to be made for emergency treatment at offsite facilities of individuals injured as a result of licensed activities.

F. Provisions for a training program for employees of the licensee, including those who are assigned specific authority and responsibility in the event of an emergency, and for other persons who are not employees of the licensee but whose assistance may be needed in the event of a radiological emergency.

G. A preliminary analysis that projects the time and means to be employed in the notification of State and local governments and the public in the event of an emergency. A nuclear power plant applicant shall perform a preliminary analysis of the time required to evacuate various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations, noting major impediments to the evacuation or taking of protective actions.

H. A preliminary analysis reflecting the need to include facilities, systems, and methods for identifying the degree of seriousness and potential scope of radiological consequences of emergency situations within and outside the site boundary, including capabilities for dose projection using real-time meteorological information and for dispatch of radiological monitoring teams within the EPZs; and a preliminary analysis reflecting the role of the onsite technical support center and of the near-site emergency operations facility in assessing information, recommending protective action, and disseminating information to the public.

III. The Final Safety Analysis Report

The Final Safety Analysis Report shall contain the plans for coping with emergencies. The plans shall be an expression of the overall concept of operation; they shall describe the essential elements of advance planning that have been considered and the provisions that have been made to cope with emergency situations. The plans shall incorporate information about the emergency response roles of supporting organizations and offsite agencies. That information shall be sufficient to provide assurance of coordination among the supporting groups and with the licensee.

The plans submitted must include a description of the elements set out in Section IV for the Emergency Planning Zones (EPZs) [2] to an extent sufficient to demonstrate that the plans provide reasonable assurance that appropriate measures can and will be taken in the event of an emergency.

IV. Content of Emergency Plans

The applicant's emergency plans shall contain, but not necessarily be limited to, information needed to demonstrate compliance with the elements set forth below, i.e., organization for coping with radiation emergencies, assessment action, activation of emergency organization, notification procedures, emergency facilities and equipment, training, maintaining emergency preparedness, and recovery. In addition, the emergency response plans submitted by an applicant for a nuclear power reactor operating license shall contain information needed to demonstrate compliance with the standards described in Section 50.47(b),[4] and they will be evaluated against those standards. The nuclear power reactor operating license applicant shall also provide an analysis of the time required to evacuate and for taking other protective actions for various sectors and distances within the plume exposure pathway EPZ for transient and permanent populations.

A. Organization

The organization for coping with radiological emergencies shall be described, including definition of authorities, responsibilities, and duties of individuals assigned to the licensee's emergency organization and the means for notification of such individuals in the event of an emergency. Specifically, the following shall be included:

1. A description of the normal plant operating organization.

2. A description of the onsite emergency response organization with a detailed discussion of:

a. Authorities, responsibilities, and duties of the individual(s) who will take charge during an emergency;

b. Plant staff emergency assignments;

c. Authorities, responsibilities, and duties on an onsite emergency coordinator who shall be in charge of the exchange of information with offsite authorities responsible for coordinating and implementing offsite emergency measures.

3. A description, by position and function to be performed, of the licensee's

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Footnotes continued from last page

Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," January 1980, to provide guidance in developing plans for coping with emergencies. Copies of these documents are available at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555. Copies of these documents may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

[2] EPZs for power reactors are discussed in NUREG–0396; EPA 520/1–78–016, "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants," December 1978. The size of the EPZs for a nuclear power plant shall be determined in relation to local emergency response needs and capabilities as they are affected by such conditions as demography, topography, land characteristics, access routes, and jurisdictional boundaries. The size of the EPZs also may be determined on a case-by-case basis for gas-cooled nuclear reactors and for reactors with an authorized power level less than 250 MW thermal. Generally, the plume exposure pathway EPZ for nuclear power plants with an authorized power level greater than 250 MW thermal shall consist of an area about 10 miles (16 km) in radius and the ingestion pathway EPZ shall consist of an area about 50 miles (80 km) in radius.

[3] Regulatory Guide 2.6 will be used as guidance for the acceptability of research and test reactor emergency response plans.

[4] These objectives are addressed by specific criteria in NUREG–0654; FEMA–REP–1 entitled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment" January 1980.

headquarters personnel who will be sent to the plant site to augment the onsite emergency organization.

4. Identification, by position and function to be performed, of persons within the licensee organization who will be responsible for making offsite dose projections, and a description of how these projections will be made and the results transmitted to State and local authorities, NRC, and other appropriate governmental entities.

5. Identification, by position and function to be performed, of other employees of the licensee with special qualifications for coping with emergency conditions that may arise. Other persons with special qualifications, such as consultants, who are not employees of the licensee and who may be called upon for assistance for emergencies shall also be identified. The special qualifications of these persons shall be described.

6. A description of the local offsite services to be provided in support of the licensee's emergency organization.

7. Identification of, and assistance expected from, appropriate State, local, and Federal agencies with responsibilities for coping with emergencies.

8. Identification of the State and/or local officials responsible for planning for, ordering, and controlling appropriate protective actions, including evacuations when necessary.

B. Assessment Actions

The means to be used for determining the magnitude of and for continually assessing the impact of the release of radioactive materials shall be described, including emergency action levels that are to be used as criteria for determining the need for notification and participation of local and State agencies, the Commission, and other Federal agencies, and the emergency action levels that are to be used for determining when and what type of protective measures should be considered within and outside the site boundary to protect health and safety. The emergency action levels shall be based on in-plant conditions and instrumentation in addition to onsite and offsite monitoring. These emergency action levels shall be discussed and agreed on by the applicant and State and local governmental authorities and approved by NRC. They shall also be reviewed with the State and local governmental authorities on an annual basis.

C. Activation of Emergency Organization

The entire spectrum of emergency conditions that involve the alerting or activating of progressively larger segments of the total emergency organization shall be described. The communication steps to be taken to alert or activate emergency personnel under each class of emergency shall be described. Emergency action levels (based not only on onsite and offsite radiation monitoring information but also on readings from a number of sensors that indicate a potential emergency, such as the pressure in containment and the response of the Emergency Core Cooling System) for notification of offsite agencies shall be described. The existence, but not the details, of a message authentication scheme shall be noted for such agencies. The emergency classes defined shall include: (1) notification of unusual events, (2) alert, (3) site area emergency, and (4) general emergency. These classes are further discussed in NUREG–0654; FEMA–REP–1.

D. Notification Procedures

1. Administrative and physical means for notifying local, State, and Federal officials and agencies and agreements reached with these officials and agencies for the prompt notification of the public and for public evacuation or other protective measures, should they become necessary, shall be described. This description shall include identification of the appropriate officials, by title and agency, of the State and local government agencies within the EPZs.[3]

2. Provisions shall be described for yearly dissemination to the public within the plume exposure pathway EPZ of basic emergency planning information, such as the methods and times required for public notification and the protective actions planned if an accident occurs, general information as to the nature and effects of radiation, and a listing of local broadcast stations that will be used for dissemination of information during an emergency. Signs or other measures shall also be used to disseminate to any transient population within the plume exposure pathway EPZ appropriate information that would be helpful if an accident occurs.

3. A licensee shall have the capability to notify responsible State and local governmental agencies within 15 minutes after declaring an emergency. The licensee shall demonstrate that the State/local officials have the capability to make a public notification decision promptly on being informed by the licensee of an emergency condition. By July 1, 1981, the nuclear power reactor licensee shall demonstrate that administrative and physical means have been established for alerting and providing prompt instructions to the public within the plume exposure pathway EPZ. The design objective shall be to have the capability to essentially complete the initial notification of the public within the plume exposure pathway EPZ within about 15 minutes. The use of this notification capability will range from immediate notification of the public (within 15 minutes of the time that State and local officials are notified that a situation exists requiring urgent action) to the more likely events where there is substantial time available for the State and local governmental officials to make a judgment whether or not to activate the public notification system. Where there is a decision to activate the notification system, the State and local officials will determine whether to activate the entire notification system simultaneously or in a graduated or staged manner. The responsibility for activating such a public notification system shall remain with the appropriate government authorities.

E. Emergency Facilities and Equipment

Adequate provisions shall be made and described for emergency facilities and equipment, including:

1. Equipment at the site for personnel monitoring;

2. Equipment for determining the magnitude of and for continuously assessing the impact of the release of radioactive materials to the environment;

3. Facilities and supplies at the site for decontamination of onsite individuals;

4. Facilities and medical supplies at the site for appropriate emergency first aid treatment;

5. Arrangements for the services of physicians and other medical personnel qualified to handle radiation emergencies onsite;

6. Arrangements for transportation of contaminated injured individuals from the site to specifically identified treatment facilities outside the site boundary;

7. Arrangements for treatment of individuals injured in support of licensed activities on the site at treatment facilities outside the site boundary;

8. A licensee onsite technical support center and a licensee near-site emergency operations facility from which effective direction can be given and effective control can be exercised during an emergency;

9. At least one onsite and one offsite communications system; each system shall have a backup power source.

All communication plans shall have arrangements for emergencies, including titles and alternates for those in charge at both ends of the communication links and the primary and backup means of communication. Where consistent with the function of the governmental agency, these arrangements will include:

a. Provision for communications with contiguous State/local governments within the plume exposure pathway EPZ. Such communications shall be tested monthly.

b. Provision for communications with Federal emergency response organizations. Such communications systems shall be tested annually.

c. Provision for communications among the nuclear power reactor control room, the onsite technical support center, and the near-site emergency operations facility; and among the nuclear facility, the principal State and local emergency operations centers, and the field assessment teams. Such communications systems shall be tested annually.

d. Provisions for communications by the licensee with NRC Headquarters and the appropriate NRC Regional Office Operations Center from the nuclear power reactor control room, the onsite technical support center, and the near-site emergency operations facility. Such communications shall be tested monthly.

F. Training

The program to provide for (1) the training of employees and exercising, by periodic drills, of radiation emergency plans to ensure that employees of the licensee are familiar with their specific emergency response duties and (2) the participation in the training and drills by other persons whose assistance may be needed in the event of a radiation emergency shall be described. This shall include a description of specialized initial training and periodic retraining programs to be provided to each of the following categories of emergency personnel:

a. Directors and/or coordinators of the plant emergency organization;

b. Personnel responsible for accident assessment, including control room shift personnel;

c. Radiological monitoring teams;

d. Fire control teams (fire brigades);

e. Repair and damage control teams;

f. First aid and rescue teams;

g. Medical support personnel;

h. Licensee's headquarters support personnel;

i. Security personnel.

In addition, a radiological orientation training program shall be made available to local services personnel, e.g., local Civil Defense, local law enforcement personnel, local news media persons.

The plan shall describe provisions for the conduct of emergency preparedness exercises. Exercises shall test the adequacy of timing and content of implementing procedures and methods, test emergency equipment and communication networks, test the public notification system, and ensure that emergency organization personnel are familiar with their duties. Each licensee shall exercise at least annually the emergency plan for each site at which it has one or more power reactors licensed for operation. Both full-scale and small-scale exercises shall be conducted and shall include participation by appropriate State and local government agencies as follows:

1. A full-scale exercise which tests as much of the licensee, State, and local emergency plans as is reasonably achievable without mandatory public participation shall be conducted;

a. For each site at which one or more power reactors are located and licensed for operation, at least once every five years and at a frequency which will enable each State and local government within the plume exposure pathway EPZ to participate in at least one full-scale exercise per year and which will enable each State within the ingestion pathway to participate in at least one full-scale exercise every three years.

b. For each site at which a power reactor is located for which the first operating license for that site is issued after the effective date of this amendment, within one year before the issuance of the operating license for full power, which will enable each State and local government within the plume exposure EPZ and each State within the ingestion pathway EPZ to participate.

2. The plan shall also describe provisions for involving Federal emergency response agencies in a full-scale emergency preparedness exercise for each site at which one or more power reactors are located and licensed for operation at least once every 5 years;

3. A small-scale exercise which tests the adequacy of communication links, establishes that response agencies understand the emergency action levels, and tests at least one other component (e.g., medical or offsite monitoring) of the offsite emergency response plan for licensee, State, and local emergency plans for jurisdictions within the plume exposure pathway EPZ shall be conducted at each site at which one or more power reactors are located and licensed for operation each year a full-scale exercise is not conducted which involves the State(s) within the plume exposure pathway EPZ.

All training, including exercises, shall provide for formal critiques in order to identify weak areas that need corrections. Any weaknesses that are identified shall be corrected.

G. Maintaining Emergency Preparedness

Provisions to be employed to ensure that the emergency plan, its implementing procedures, and emergency equipment and supplies are maintained up to date shall be described.

H. Recovery

Criteria to be used to determine when, following an accident, reentry of the facility would be appropriate or when operation could be resumed shall be described.

V. Implementing Procedures

No less than 180 days prior to scheduled issuance of an operating license for a nuclear power reactor or a license to possess nuclear material, 3 copies of each of the applicant's detailed implementing procedures for its emergency plan shall be submitted to the Director of the appropriate NRC Regional Office with 10 copies to the Director of Nuclear Reactor Regulation or, if appropriate, the Director of Nuclear Material Safety and Safeguards. In cases where a decision on an operating license is scheduled less than one year after the effective date of this rule, such implementing procedures shall be submitted as soon as practicable but before full power operation is authorized. Prior to March 1, 1981, licensees who are authorized to operate a nuclear power facility shall submit 3 copies each of the licensee's emergency plan implementing procedures to the Director of the appropriate NRC Regional Office with 10 copies to the Director of Nuclear Reactor Regulation. Three copies each of any changes to maintain these implementing procedures up to date shall be submitted to the same NRC Regional Office with 10 copies to the Director of Nuclear Reactor Regulation or, if appropriate, the Director of Nuclear Material Safety and Safeguards within 30 days of such changes.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

2. Section 70.32 is amended by adding paragraph (i) to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(i) Licensees required to submit emergency plans in accordance with § 70.22(i) shall follow and maintain in effect emergency plans approved by the Commission. The licensee may make changes to the approved plans without Commission approval only if such changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E, Section IV, 10 CFR Part 50. The licensee shall furnish the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix D, Part 20 of this Chapter, each change within six months after the change is made. Proposed changes that decrease the effectiveness of the approved emergency plan shall not be implemented without prior application to and prior approval by the Commission.

* * * * *

(Sec. 161b., i., and o., Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, as amended, Pub. L. 93–438, 88 Stat. 1242, Pub. L. 94–79, 89 Stat. 413 (42 U.S.C. 5341))

Dated at Washington, D.C. this 11th day of August 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80–25247 Filed 8–18–80; 8:45 am]

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10 CFR Part 50

Emergency Planning: Negative Declaration; Finding of no Significant Impact for Effective Rule Changes

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final negative declaration; finding of no significant impact.

SUMMARY: The Nuclear Regulatory Commission's regulations require that the environmental impact of certain regulatory actions, including substantive amendments to 10 CFR Part 50, be evaluated to determine if an environmental impact statement should be prepared. If it is determined an environmental impact statement need not be prepared, a negative declaration will be issued. The NRC has evaluated the environmental impact of the proposed changes to Part 50 dealing with emergency planning requirements for nuclear power plants (published elsewhere in this issue), and has determined that the rule changes will not have a significant impact on the human environment. Therefore, an environmental impact statement will not be prepared, and a negative declaration is being issued.

DATES: The rule changes for emergency planning will become effective November 3, 1980.

ADDRESSES: Copies of the Final Environmental Assessment, NUREG–0685, and the comments received by the Commission may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

and at local Public Document Rooms. Single copies of the final Environmental Assessment (NUREG–0685) are available for purchase through the NRC GPO sales program for $4.25 (USNRC, Attention Sales Manager, Washington, D.C. 20555).

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 443–5966.

SUPPLEMENTARY INFORMATION: On January 21, 1980 the Nuclear Regulatory Commission published a "Draft Negative Declaration; Finding of No Significant Impact" (45 FR 3913, January 21, 1980) for proposed changes to 10 CFR Part 50, §§ 50.33, 50.47, 50.54 and Appendix E that deal with emergency planning requirements for nuclear power plants (44 FR 75167, December 19, 1979). A draft Environmental Assessment accompanied the draft Negative Declaration. The comment period ended on February 18, 1980.

Sixteen sets of comments were submitted and have been analyzed. Although all 16 commenters felt that the draft Environmental Assessment was inadequate to support the Finding of No Significant Impact, the staff analysis does not support this view. The commenters suggested that some points in the draft Environmental Assessment were in error, some required much more detailed discussion, and some points had been ignored. The errors have been corrected and do not significantly affect the earlier conclusion. The levels of detail and the omissions are generally related to the penalties associated with noncompliance with the rule. The staff originally judged that invocations of the noncompliance penalties (i.e., nuclear power plant shutdown) would be infrequent and of short duration and the associated impacts would thus be insignificant. Commenters asserted that there will be frequent and long-term shutdowns which will have severe impacts which would require detailed consideration in an Environmental Impact Statement. The staff analysis has supported the judgment of infrequent, short-term shutdowns and thus concludes that no additional detailed studies are necessary.

Minor revisions have been made in the environmental assessment reflecting comments received, but its conclusions have not been altered. Based on this assessment, a final determination has been made by the Director, Office of Standards Development, that the proposed rule changes will not have a signficant impact on the human environment and, therefore, that an environmental impact statement will not be prepared for these rule changes.

Analysis of Comments

The groups that submitted comments are identified on the Table together with their principal comments. No comments were received from State or local governments, other Federal agencies, or public interest groups.

The main point of each set of comments was that an Environmental Impact Statement should be prepared for the rule changes and that the Environmental Assessment ". . . inadequately addresses the environmental impact of the Emergency Planning Proposed Rule and the economic and social impacts on U.S. industry of long-term or permanent premature shutdowns of nuclear plants" (AEP). The comments have been reconstructed into 14 general criticisms, which have been analyzed for their relevance to the validity of the conclusions in the "Draft Negative Declaration; Finding of No Significant Impact."

One matter warrants additional mention here. An assumption was made in preparation of the DEA that shutdowns of nuclear power plants as a result of actions taken under these rule changes would be infrequent and of short duration. This assumption is critical to the decision that an Environmental Impact Statement should not be prepared. The basis for this assumption was that, since State and local authorities have the responsibility, in common with the NRC, to protect public health and safety and are concerned with meeting the energy needs of their citizens, it is likely that they will cooperate to ensure the continued safe operation or timely commencement of safe operation of nuclear generation capability within their jurisdiction. The only significant adverse reaction by the State and local governments that must bear this burden has been that complications in funding of State programs and lead time for equipment acquisition might make it difficult to completely satisfy all of the planning and preparedness requirements by the date set forth in the proposed rule changes. As a direct result of this, the deadline for plans and implementation has been extended to April 1, 1981, and the deadline for having warning systems in place has been extended to July 1, 1981. These extensions should be sufficient in most cases.

It should also be noted that the Commission has chosen the alternative that requires Commission action to initiate a shutdown. Conditions are specified in the regulation that the Commission will use in each case to determine whether a shutdown is warranted. When considered together, the lack of any significant adverse comment from State and local governments, the necessity for Commission action before a plant will be shut down, and the conditions for whether a shutdown is warranted, all argue convincingly that the assumption that shutdowns will be infrequent and of short duration is sound. Thus, the assumption is retained in the final Environmental Assessment (NUREG–0685) and the impacts of extended shutdowns are not considered valid impacts of these rule changes.

The 14 reconstructed general comments and a discussion of each follow:

1. *Three commenters (see Table) contend that alternatives to the proposed rule changes are inadequately addressed. They specifically mention alternative ways of achieving the same end such as proposing legislation.*

In view of the existing safety record of the nuclear industry and the lack of effective preparation for the TMI accident, the Commission had the following three alternatives from which to choose:

A. The Commission could take no immediate action itself while encouraging other parties, i.e., the Congress, other Federal Agencies, the States, and the utilities themselves to take effective action. This "no action" alternative would be counter to the Commission's legislative mandate to protect public health and safety. In fact, the TMI accident was a clear indication that this "urging without requiring" emergency preparedness had proved to be ineffective. This alternative clearly could not stand in the face of the Commission's responsibility in this area.

B. The Commission is a regulatory agency and has as one of its chief tools the authority to issue regulations that bind those parties that it regulates. If an effective method for achieving protection of public health and safety is available through promulgation of regulations with specific requirements and penalties and conditions governing those requirements and penalties, this should be the proper way for the Commission to proceed.

C. If the Commission judged that danger to public health and safety was significant and imminent because of continued operation of existing plants while effective regulations are developed, it had the authority to impose immediate shutdowns until a solution could be found. The safety record of nuclear power, including the

TMI accident, does not support an industry-wide judgment of imminent, significant danger. However, potential does exist for significant harm to the public in the event of a severe accident and the events at TMI suggest that plans must be made to account for this potential problem. Notwithstanding this potential, given the likelihood of an accident requiring off-site emergency protective measures, immediate industry-wide shutdown and the attendant severe long-term impacts are not warranted.

Alternatives A and C are clearly unacceptable. The discussion of alternatives in the Final Environmental Assessment has not been changed from that in the Draft Environmental Assessment.

2. *Seven commenters (see Table) assert that the impacts of shutdowns are underestimated and that shutdowns of multiple unit plants or several in the same State were not considered.*

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[7590-01]

Matrix Display of Commenters and Major Comments

Major Comments \ Commenters[1]	AIF	Yank. At.	Com. Ed.[2]	Con. Ed.	AEP	EEI	LLLM	NU	PASNY	BG&E	D & L	Duke	SPP&T	DOE	LNRA&T
1. Alternatives inadequately addressed	X	X													X
2. Impacts of shutdowns underestimated (costs)	X	X		X			Endorses EEI		Endorses EEI	X			X	X	X
3. Health effects of fossil substitution underestimated	X			X										X	X
4. Challenge assumption of infrequent, short-duration shutdowns	X	X		X	X	X	X		X				X		X
5. Judgement on State cooperation unsubstantiated	X	X	X	X	X									X	X
6. Long-term impacts not addressed	X			X	X					X					X
7. Psychological and physical risks of false alarms not evaluated	X	X								X		X		X	X
8. Use of fuel-mix improper, variation in cost of replacement power			X		X					X		X		X	
9. Significant impacts due to linkage between approval and continued operation		X		X		X	X		X						
10. Proposed rule prior to FEMA		X									X				
11. Costs too low (15 minute warning system not included)		X						X			X	X	X	X	X
12. Decisions granting exemptions or resumption of operation should be classified as categorical exclusions under Commission's NEPA regulations			X												
13. No consideration of costs to utilities											X	X			
14. No consideration of plants under construction															X

[1] Key to Commenters
AIF - Atomic Industrial Forum
Yank. At. - Yankee Atomic Electric Co.
Com. Ed. - Commonwealth Edison[2]
Con. Ed. - Consolidated Edison Company of New York, Inc.
AEP - American Electric Power Service Corporation
EEI - Edison Electric Institute
LLLM - LeBoeuf, Lamb, Leiby & MacRae (for five utilities)
NU - Northeast Utilities
PASNY - Power Authority of the State of New York
BG&E - Baltimore Gas and Electric
D & L - DeBevois & Liberman (for three utilities)
Duke - Duke Power Company
SPP&T - Shaw, Pittman, Potts & Trowbridge (for eight utilities)
DOE - U. S. Department of Energy
LNRA&T - Lowenstein, Newman, Reis, Axelrod & Toll (for two utilities)

The DEA was prepared with the understanding that ever increasing fuel prices make it difficult to make stable predictions of the costs of replacement power. While individual values of replacement costs may be in error, the upper end of the range of costs of replacement power, which is compared in the Environmental Assessment to the costs of compliance, is only changed by about 36% when the heat rate is changed as suggested. The response to comment eleven indicates that the costs of compliance were also underestimated. the relative comparison of these two costs was used to demonstrate the strong economic incentive that exists for all parties to strive for effective emergency planning and preparedness. The staff agrees that the net plant heat rate assumed in the DEA is low and therefore changed the assumed heat rate from 9,400 Btu/kWh to 11,000 Btu/kWh. Accordingly, the cost figures have been modified in the Final Environmental Assessment; but these modifications do not alter the conclusions of the Environmental Assessment.

The question of multiple-plant shutdowns because of a common reason, i.e., an unacceptable State plan or multiple units on a site where the local plan is unacceptable, is a more difficult problem. The State plans are only a part of the overall Federal Emergency Management Agency (FEMA) program to enhance the ability of State governments to handle emergencies. The economic incentive for the utilities to help the States in every way possible should result in the preparation of plans and equipment for a nuclear plant emergency that will be a sound, significant contribution to the overall capability of a State to handle many different kinds of emergencies. The provision of conditions that permit issuance of an operating license or continuation of operation, the extension of the compliance date and deadline for warning systems to be in place, and the record of cooperation from the States up to the present time make it unlikely that any State's program will be so deficient that shutdown of all plants in the State will be required.

The potential that an unsatisfactory local plan might result in the shutdown of all units on a specific site appears to be significantly greater. Depending on the size and number of the units involved, the incentive of the utility for aiding the local governments is also greater. The potential magnitude of the impact of shutdown in these cases is two to three times greater than for the single unit case, and this determination has been added to the Environmental Assessment. In any case, it would appear that whether these impacts, if severe enough, constitute "other compelling reasons" to permit continued operation will be determined in the individual reviews.

3. *Four groups comment that health effects of fossil substitution are underestimated in the draft Environmental Assessment and that other effects are ignored.*

The critical assumption in the draft and final Environmental Assessment is that shutdowns will be infrequent and of short duration. In such a case, the fossil generating capacity is simply that which is available for normal replacement power during refueling and maintenance outages and would probably be used in periods of peak demand until the utility phases it out of the generating system completely. (The impacts are thus ones that occur anyway, but at a different time. Short, infrequent shutdowns will only change the time period for suffering an impact that will most likely be felt eventually anyway.) For such short-term replacement, no new plants will be built. The draft and final Environmental Assessment accepts these impacts as a consequence of infrequent and brief shutdowns. (A more accurate analysis might conclude that there is zero cumulative impact because the useful life of the replacement capability is unaltered.) The discussions in the Final Environmental Assessment are unaltered on this subject.

4. *Nine commenters challenged the assumption that shutdowns would be infrequent and of short duration and questioned the lack of treatment of the availability of replacement capacity.*

The assumption that shutdowns will be infrequent and of short duration is critical to the validity of the Environmental Assessment. At the time when the Draft Environmental Assessment was prepared, this assumption was based on the assertion that State and local governments (having in common with NRC the responsibility to protect public health and safety) will cooperate to provide fully for protection of the public. Since that time, the Commission, in cooperation with FEMA, has been working diligently to help State and local governments develop satisfactory emergency plans and programs. The response of the State and local governments has confirmed the validity of the earlier assumption. In addition, no State or local government provided any comment on the Draft Environmental Assessment, thus indicating at least tacit agreement with the basis for the assumption.

Since the basis for the assumption of infrequent shutdowns has not received substantive challenge from the parties directly involved, but there has instead been activity that tends to confirm the assumption, it will remain as a fundamental assumption of the final Environmental Assessment.

The availability of replacement capacity also hinges on this assumption. Part of the purpose of reserve capacity is replacement during plant outages. As long as shutdowns are infrequent and of short duration, they should fit into this normal pattern of utilization of replacement capacity. No additional discussions of this topic have been prepared for the final Environmental Assessment.

5. *Seven commenters contend the judgment that ". . . it is likely that the States will cooperate to assure the continued safe operation or timely commencement of safe operation of nuclear generation capability within their jurisdiction" is unsubstantiated.*

While this assumption was made in the absence of first-hand information, the experience of the Commission since December 1979, in attempting to work with state and local government officials, has confirmed the accuracy of this assumption.

6. *Five commenters assert that impacts of long-term shutdowns are not addressed.*

The assumption that shutdowns will be infrequent and of short duration defines the scope of this Environmental Assessment. As described above, long-term shutdowns are not the expected result of these rule changes. The goal of these rule changes is timely implementation of adequate emergency plans and programs. The draft and final Environmental Assessment address the impacts of this action based on the expected consequences and practical considerations of implementation of the provisions of the rule changes. No analysis of the effects of long-term shutdowns has been added to the final Environmental Assessment.

7. *Six commenters contend that psychological and physical risks to the public of false alarms are not evaluated.*

The Emergency Action Level Guidelines (NUREG–0610) recommend notification of the public when a "Site Emergency" has been declared. The expected frequency of an event of this type is predicted to be 1 in 100 to 1 in 5,000 per reactor per year. The high end of this range indicates that two such warnings might occur over the effective life (40 years) for every five units. The low end indicates one event over the life of 125 units. Far from causing excessive psychological and physical risks, this

kind of behavior should lead to a more accurate public perception of the true incidence of risk from nuclear power facilities and a more practical and considered response to an emergency when one occurs. No change has been made in the final Environmental Assessment.

8. *Five commenters assert that the use of the mix of fuels already in use in the State is a poor predicter of what would be the fuel replacement capacity for a specific plant shutdown.*

A generic assessment must make some averaging assumptions or become hopelessly lost in detail. In this case, the commenters are correct that this is a "gross assumption." It is, however, sufficient to establish the range of costs for replacement power, which is the way the detailed information was used. No change has been made in the mix of fuels used to generically assess the range of costs of replacement power.

9. *Five commenters observe that all of the significant impacts are due to linkage between adequacy of emergency plans and continued plant operation.*

These commenters agree that the impacts of compliance are insignificant and that if there were no penalty associated with inadequate emergency preparedness then an Environmental Assessment or no Environmental Assessment would be appropriate. The thrust of the rule is to protect the public through adequate emergency planning. The thrust of the shutdown provision is to protect the public in the event that adequate provision has not been and is not being made to provide adequate emergency planning and preparedness.

The decision of how the public should be protected has been made, i.e., either emergency planning and preparedness is adequate or a plant may be placed in a condition of safe shutdown. The State and local authorities have the responsibility to determine which option is in the best interest of their citizens. The linkage remains in the effective rule changes. No additional discussion has been provided in the final Environmental Assessment.

10. *Two commenters observed that the proposed rule was issued prior to the expanded role of FEMA in emergency planning for nuclear power plants.*

The NRC and FEMA are working closely to establish and carry out their respective roles in emergency planning for nuclear power plants. The effective rule has been changed to reflect this change in relationship between the two agencies. However, the substantive provisions of the rule have not changed, only the parties responsible for specific actions.

11. *Seven commenters assert that the costs of implementation are too low and that there may not be enough time allowed to achieve adequacy in all areas of emergency planning and preparedness.*

The draft Environmental Assessment based its estimates of cost of implementation on information contained in "Beyond Defense in Depth: Cost and Funding of State and Local Government Radiological Emergency Response Plans and Preparedness in Support of Commercial Nuclear Power Stations," NUREG–0553, October 1979. This report did not consider the costs of a warning system that would effectively warn everyone within 10 miles within 15 minutes of the time when the decision to warn the public is made. The cost estimates in the draft Environmental Assessment thus do not include the costs of 15-minute notification. The estimates provided by the commenters have been used to revise the cost estimate in the final Environmental Assessment. It should be noted that all cost figures are approximate and are only intended to give an estimate of the normal magnitude of costs and fees associated with building and operating a nuclear power plant. Significant variations from these costs for individual cases should be expected.* These changes do not affect the earlier conclusions of the draft Environmental Assessment.

In response to comments that more time might be needed, the deadline for plans and implementation to be completed has been extended to April 1, 1981, and the deadline for installation of warning systems has been extended to July 1, 1981 to allow for procurement problems. Appropriate changes have been made in the Environmental Assessment but the earlier conclusions remain unaffected.

12. *One commenter suggested that decisions on shutdowns, allowing continued operation despite inadequate plans, or the resumption of operation after a shutdown should be listed in 10 CFR Part 51 as a categorical exclusion.*

The categorical exclusions in Part 51 are those Commission actions that have been judged as a class not to have any significant environmental impact and thus have been excluded from further consideration under those portions of the Commission's regulations that implement the National Environmental Policy Act of 1969. The Commission will consider this as a comment on the ongoing rulemaking on 10 CFR Part 51 (45 FR 13739).

13. *Two commenters noted that no consideration was given to the costs to the utilities of those portions of the rule changes that upgrade previous onsite requirements.*

This oversight has been corrected. While these costs added a significant increment to the total cost of implementation, this total cost is still low compared to the reference costs of (1) replacement power, (2) tax and fee burden, and (3) capital investment. While several of the cost figures in the final Environmental Assessment have been revised upward, the comparison of these costs has remained unchanged and the conclusions of the Environmental Assessment are unchanged.

14. *One commenter observed that there is no consideration given to plants under construction.*

The cost estimates were forecast for all plants scheduled to be operating by the time the rule was to become effective. To go beyond this period would only complicate the estimates with future costs of greater uncertainty. The purpose here was to present an approximation of the relative significance of the cost impacts to determine whether a more detailed analysis is necessary. The relative magnitude of these costs is well established by the information at hand and these are clearly sufficient to support a decision without the preparation on environmental impact statement.

Dated at Bethesda, Maryland, this 6th day of August 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development, U.S. Nuclear Regulatory Commission.

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* Northeast Utilities indicated costs as much as 2.5 times those quoted in the Environmental Assessment but also cited unusual complications such as large numbers of local governments that escalated their costs. Since this single estimate was not confirmed by other State or utility commenters, the values were considered beyond the usual range of costs.

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Federal Register

Vol. 45, No. 162

Tuesday, August 19, 1980

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FEDERAL REGISTER PAGES AND DATES, AUGUST

51167-51538.....1
51539-51754.....4
51755-52138.....5
52139-52354.....6
52355-52768.....7
52769-53074.....8
53074-53436.....11
53437-53800.....12
53801-54008.....13
54009-54298.....14
54299-54710.....15
54711-55136.....18
55137-55418.....19

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11790 (*See* 12231).....52139
12230.....51167
12231.....52139
12232.....53437
Proclamations:
4776.....51539
4777.....53075
4778.....53439
4779.....53441
4780.....53443
4781.....53445
Administrative Orders:
Presidential Determinations:
No. 80-25 of August 8, 1980.....54299
Memorandums:
July 31, 1980.....51169, 51171, 51173

5 CFR

Ch. XIV.....51541
213.....55137-55140
297.....52769
410.....51755
581.....53447
Proposed Rules:
339.....53481
359.....51214
432.....53481
752.....53481
831.....53481
930.....53485

6 CFR

705.....51175
706.....51541, 52769

7 CFR

2.....52355
6.....54301
210.....51175
245.....52770
272.....53448
273.....53448
282.....54638
301.....51176
319.....53449
331.....51755, 53450, 54302
401.....54711
418.....54718
419.....54720
427.....54722
430.....54723
437.....54711
722.....51755
800.....55118
801.....55118
802.....55118
908.....52356, 53801, 54063, 55140
910.....51177, 52771, 54304
916.....53450
917.....51179, 53450, 54724
919.....54305
921.....51180
922.....53451
924.....51180
926.....52772
946.....52141
948.....51182
958.....52141
967.....52143
993.....54064, 54725
1137.....51542
1421.....53801, 54305, 55141-55159
1427.....53077, 55166
1446.....51756
1701.....54307
2853.....51757
2890.....54307
2891.....54307
2892.....54307
2893.....54307
2894.....54307
2895.....54307
2896.....54307
2897.....54307
2898.....54307
2899.....54307
Proposed Rules:
29.....51572
272.....51216, 53792
273.....51216, 53066, 53792
301.....52816
404.....51573
427.....54346
431.....53486
722.....52817
800.....52339
910.....53487
985.....51818
1001.....54066
1065.....55213
1435.....54347
1464.....51579
1701.....54354
1492.....52342
1990.....51818
2858.....51217
2871.....51217

8 CFR

238.....54310
264.....52143
Proposed Rules:
Ch. I.....51832
214.....51580

9 CFR

78.....52772

92 52773
318 54310
381 54310

Proposed Rules:

94 52818
317 53002
318 51832
381 53002

10 CFR

2 54725
50 ..... 55402, 55413
70 55402
110 51184
211 55374
212 ..... 52112, 54325
220 55374
430 53488
445 51763
456 53434
500 53682
501 53682
504 53682
1050 53972

Proposed Rules:

2 53972
50 54662
205 51833
211 54662
212 ..... 54069, 54688, 54694
378 51581
430 53714
456 53422
500 53368
503 53368
504 53368
505 53368
506 53368
799 54264

11 CFR

100 52356
110 52356

12 CFR

7 53080
201 ..... 52144, 54009
220 53452
225 54326
265 54011
303 54326

Proposed Rules:

Ch. I 52166
Ch. II 51581
Ch. VI 55213
Ch. VII 55214
205 54070
303 52819
309 52819
525 52173
541 ..... 52173, 52177
545 ..... 52173, 52177
561 52177
563 ..... 52173, 52177

13 CFR

Proposed Rules:

101 ..... 51763, 53081
108 53835

14 CFR

39 ..... 51543–51546, 52357, 53081, 53084, 53086, 54012–54014, 54725–54732
71 ..... 51546, 53086–53090, 54015, 54027, 54028, 54733
73 54028
91 51547
97 52358
121 51547
127 51547
135 51547
201 53453
207 53358
208 53363
211 53453
212 53364
214 53365
241 53366
374a 53453
375 51838
385 53454

Proposed Rules:

Ch. I 53161, 53162, 54766
39 ..... 53162, 54071, 54072
45 ..... 53163, 54766
71 ..... 51587–51590, 52396, 53163, 54072–54080, 54766
73 51591
75 ..... 52396, 54081
121 53316
135 53316
207 53488
208 53488
212 53488
214 53488
255 52820

15 CFR

17a 54028
200 55166
373 54031
378 53090

Proposed Rules:

19 51592

16 CFR

13 ..... 52776, 52778, 53455, 55171
305 53340
436 ..... 51763, 51765
455 52750
460 54702
1019 53036

Proposed Rules:

13 ..... 51593, 51596, 55219
239 51838
406 55223
441 53839
705 51218

17 CFR

Ch. I 54032
7 51520

Proposed Rules:

1 51598
4 51600

18 CFR

2 ..... 53091, 53099
154 53091
270 ..... 53091, 53099
271 53099
277 53116
281 54733
282 ..... 52359, 54741
290 54033
292 52779
375 53456

Proposed Rules:

2 54354
154 54354
260 54082
271 ..... 51219, 54085
273 ..... 51219, 54085
274 ..... 51219, 54085
301 51614

19 CFR

353 52780
355 54035

Proposed Rules:

Ch. I 51490
177 54085
207 54086

20 CFR

Ch. III 53806
404 52078
416 ..... 52078, 54742

Proposed Rules:

Ch. II 51615

21 CFR

172 51766
175 51184
176 51767
193 ..... 51768, 53457, 53458, 54035
510 ..... 54327, 54328
520 52781
540 54329
555 54327
558 ..... 53457, 54328
740 55170
884 ..... 51185, 51186
1306 54329

Proposed Rules:

Ch. II 51832, 52397
101 53023
310 54354
346 54354
600 52821
606 52821
610 51226
660 51226

22 CFR

220 54751
221 54751
222 54751

Proposed Rules:

Ch. II 53164–53182

23 CFR

657 52365
658 52365

Proposed Rules:

625 51720
652 51720
663 51720

24 CFR

200 54198
203 ..... 51769, 51770
207 ..... 51769, 51771
213 51771
220 ..... 51769, 51770
221 ..... 51770, 51771
222 51770
226 51770
235 ..... 51770, 53806
265 54204
279 51510
571 51516
590 52762
803 54330
869 52371
885 51186
888 54330
1710 52144

Proposed Rules:

51 55223
570 51227
804 54087
805 54087
841 54087
865 51228
866 51615
886 51228
888 51228
889 51229

25 CFR

Proposed Rules:

171 53164
172 53164
173 53164
177 53164
182 53164
231 54331

26 CFR

1 ..... 52373, 52782
26 53123
26a 51771
48 52800
54 52782

Proposed Rules:

1 ..... 52399, 52824
14 52824
26 51840

27 CFR

Proposed Rules:

Ch. I 51496
5 54087
13 54087
19 ..... 52407, 54087
70 52407
170 54087
173 54087
186 54087
194 54087
195 54087
196 54087
197 54087
200 54087
201 54087
211 54087
212 54087
213 54087
231 54087
240 ..... 52407, 54087
245 52407
250 ..... 52407, 54087
251 54087
252 54087
270 52407
275 52407

28 CFR

0 52145
18 54752
42 54036
31 53772

Proposed Rules:

Ch. I 51506, 51832

16 52183
42 54770
50 52183

29 CFR

11 51187
40 51192
102 51192
575 55175
1440 55394
1625 51547
1910 54333
1913 54333
1952 ..... 51775, 53457, 54334
1999 51187
2520 51446
2550 51194

Proposed Rules:

Ch. XIV 51229
1960 54355
2520 ..... 51231, 52824, 54370
2530 ..... 51231, 52824, 54370
2550 ..... 51231, 51840

30 CFR

Ch. VII 51547, 52834
211 53128
700 54752
762 52375
785 54752
800 52306
801 52306
805 52306
806 52306
807 52306
808 52306
816 54752
817 54752
820 54752

Proposed Rules:

Ch. VII 52407, 52408, 53180, 53839, 54371, 54372
104 54656
250 ..... 52408, 53840
700 52410
701 52410
715 53183
732 53489
784 51240
816 53183
817 ..... 51240, 53183
884 53489
924 53841
926 53489

31 CFR

341 53393
346 ..... 53393, 55178

32 CFR

706 54753
763 51776
853 52800
888d 52145

33 CFR

110 ..... 54754, 54755
117 51550
161 53135
164 54037
165 53158
175 54042
207 ..... 51551, 51555
401 52376

Proposed Rules:

117 ..... 51617, 51618
209 54770

34 CFR

64 ..... 353412, 53414
709 53788

Proposed Rules:

100 ..... 52052, 53841
797 54000

36 CFR

1228 54334

Proposed Rules:

7 51618
14 54771
1190 55006
1202 51843

37 CFR

304 51197

38 CFR

17 53807
21 51777
36 53807

39 CFR

Proposed Rules:

111 51846

40 CFR

35 ..... 51484, 53382
51 52676
52 ..... 51198, 51199, 52148, 52676, 53460, 53475, 53476, 53809, 54042, 54336, 55178–55180, 55197
80 55136
81 ..... 53147, 54052
86 53400
122 52149
122–124 55386
124 52676
180 ..... 51200, 51781, 51782, 53477, 53478, 54053, 54340 55187–55199
260–265 55386
413 55200

Proposed Rules:

6 53187
35 53187
50 ..... 55066, 55083
52 ..... 51619, 51620, 52184, 52834, 52841, 53490, 53491, 54088, 54089, 54372, 54772, 55227–55230
58 ..... 54772, 54773, 55230
60 54385
61 53842
80 54090
81 ..... 52841, 55230, 55231
122–124 55237
162 ..... 52628, 54094
164 52628
167 52184
169 52184
180 51854
260–265 55232
408 52411
410 52185
717 51855
720 54642

41 CFR

Ch. 44 55346
Ch. 101 ..... 51201, 53149
3 53806
7–12 54755

Proposed Rules:

101–17 52842

42 CFR

Ch. I 53806
Ch. III 53806
Ch. IV 53806
57 ..... 51201, 51205
58 ..... 51209, 51556
110 55122
405 ..... 51783, 54757
455 51559

Proposed Rules:

51 53492
72 51241
405 54774
460 53189
461 53189

43 CFR

4100 53154
8351 51740

Proposed Rules:

2560 52303

Public Land Orders:

5741 53155
5742 51787
5743 51787
5744 51788
5745 52382
5746 52382

44 CFR

64 52383
65 ..... 51212, 51788, 52384
67 ..... 51213, 51559, 51789, 51796
70 54760–54764
205 ..... 53334, 53956
322 53479

Proposed Rules:

6 51426
67 ..... 51855–51858, 52416, 52417, 52422, 52427, 54774–54776, 55232–55236

45 CFR

Subtitle A 53806
Ch. II 53806
Ch. III 53806
Ch. XIII 53806
64 53412
71 54765
151 53996
185 54004
121i 52130
121o 52130
121p 52130
121q 52130
121r 52130
228 55382
801 52800
1050 53155
1060 51561
1480 52782

Proposed Rules:

121q 52136
190 51243

46 CFR

30 52386
61 52386
151 52386

Proposed Rules:

11 54776
93 54095

47 CFR

Ch. I 52389
1 55200
13 52154
22 52149
68 ..... 52151, 54341
73 ..... 51561–51563, 52152, 52800, 52801, 53156, 53818, 53821, 55201–55205
74 51563
76 52153
81 52154
83 52154
87 52154
90 ..... 51811, 55200
95 55200
97 51564

Proposed Rules:

Ch. I 51251
2 ..... 51251, 51252, 53843
13 54778
15 ..... 51251, 54784
21 51252
22 53843
73 ..... 51624, 52843, 52845, 52846, 52848, 53843, 54786, 55237–55244
74 51252
81 54778
83 54778
87 54778
90 ..... 53843, 53844, 55245
94 51252

48 CFR

Proposed Rules:

9 51253

49 CFR

1 54054
571 ..... 51569, 52365, 53157
840 54055
941 52389
1002 ..... 51213, 52158, 52802
1003 ..... 51213, 52158
1033 ..... 51812–51815, 52158, 52160, 52161, 52803, 53157, 53824, 53826, 54344
1045A 51213, 52158
1056 ..... 51213, 52158
1062 ..... 51213, 52158
1100 ..... 51213, 52158
1120A 53827, 55205
1130 ..... 51213, 52158
1150 ..... 51213, 52158
1249 55209
1309 52161
1310 52161

Proposed Rules:

Ch. X 53846
171 54097
173 54097
178 54097
398 51625
571 ..... 51626, 51628
1039 ..... 54111, 54385
1080 53190
1100 55246
1102 51858

1116.....52186

50 CFR

17.....52803, 52807, 53968
54678
18.....54056
26.....52391
32.....52392, 52393, 54057–
54060, 54344, 55210
285.....53479
611.....53831
652.....53480
653.....52810
661.....53832

Proposed Rules:

13.....52849
17.....52849, 53495, 54111,
54112, 54682, 54685
20.....53982
32.....52163
216.....51254
265.....51858
285.....52853
611.....51254, 53500, 53847
655.....51254
661.....51861, 54113

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 41 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	HHS/FDA		DOT/SLSDC	HHS/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

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

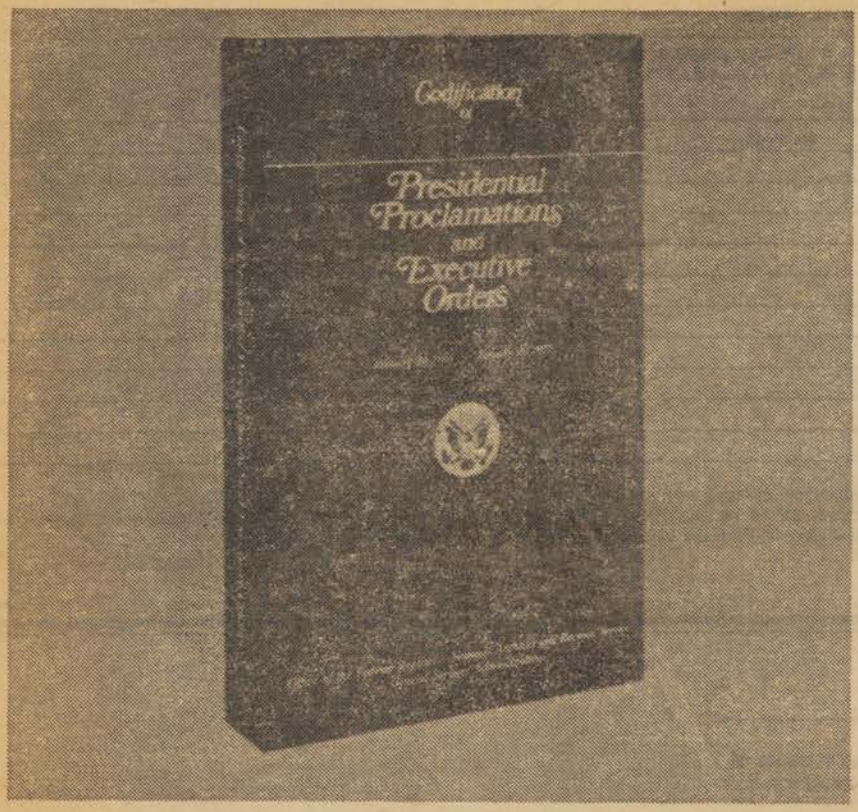
Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 14, 1980

NEW PUBLICATION NOW AVAILABLE



For those of you who must keep informed about Presidential proclamations and Executive orders, there is now a convenient reference source that will make researching certain of these documents much easier.

Arranged by subject matter, this first edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1977, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1961–1977 period, along with any amendments, an indication of its current status, and, where applicable, its location in this volume.

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