U.S. GOVERNMENT INFORMATION GPO

6-17-81
Vol. 46 No. 116
Pages 31635-31868

federal register

Wednesday
June 17, 1981

Highlights

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31654 **Real Estate Loans** NCUA proposes regulations on fixed rate mortgage and adjustable rate mortgage loans.

31651, 31660 **Credit Unions** NCUA proposes regulations on lending policies, amortization and loan payments, lines of credit to members and participation loans. (2 documents)

31804 **Federal Cash Management** Treasury/FS publicizes current rate of funds as 16.19 percent.

31818, 31836 **National Wildlife Refuges and Parks** Interior/FWS/NPS establish public use and management regulations for refuges and park areas located on Alaskan federally-owned lands. (2 documents) (Parts II and III of this issue)

31663 **Military Personnel** DOD proposes to revise its policies, standards, and procedures for administrative separation of enlisted persons.

31766, 31767 **National Fires Codes** OFR request comments on existing National Fire Protection Association (NFPA) safety standards and technical committee reports. (2 documents)

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Highlights

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

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

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Presidential Documents

Title 3—

The President

Presidential Determination No. 81–10 of June 9, 1981

Economic Support Fund Assistance for El Salvador

Memorandum for the Secretary of State

By virtue of the authority vested in me by section 614(a)(1) of the Foreign Assistance Act of 1961, as amended (the Act), I hereby:

(1) determine that the furnishing to El Salvador of not to exceed $18,000,000 in assistance under chapter 4 of part II of the Act from amounts appropriated for assistance to Israel and Egypt under that chapter in the fiscal year 1981, without regard to statutory allocations of assistance under that chapter to those countries, is important to the security interests of the United States; and

(2) authorize the furnishing of such assistance to El Salvador.

You are requested on my behalf to report this determination to the Congress immediately, and none of the assistance provided for herein shall be furnished until after such report has been made.

This determination shall be published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, June 9, 1981.

[FR Doc. 81-18162
Filed 6-15-81; 4:17 pm]
Billing code 3195-01-M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

Walnuts Grown in California; Expenses of the Walnut Marketing Board and Rate of Assessment for the 1980–81 Marketing Year; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects the rate of assessment for certified merchantable walnuts established by the final rule authorizing expenses and rate of assessment for the 1980–81 marketing year. The final rule was published on page 70212 of the October 23, 1980, issue of the **Federal Register**. The correct rate of assessment is 0.40 cent per kernelweight pound instead of 0.40 cent per 100 pounds kernelweight.

FOR FURTHER INFORMATION CONTACT:
J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

Therefore, § 984.332(b) is corrected to read as follows:

§ 984.332 Expenses and rate of assessment.

* * * * *

(b) The rate of assessment for said year payable by each handler in accordance with § 984.69 is fixed at 0.40 cent per kernelweight pound for certified merchantable walnuts.

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

Dated: June 11, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 81-17926 Filed 6-16-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

10 CFR Part 1008

Privacy Act: Records Maintained on Individuals; Correction

AGENCY: Department of Energy.

ACTION: Correction to final rule.

SUMMARY: This document corrects the designation of certain paragraphs in a Privacy Act document regarding records maintained on individuals published at 45 FR 61576, September 16, 1980.

EFFECTIVE DATE: October 16, 1980.

FOR FURTHER INFORMATION CONTACT:
Milton Jordan, Director, Division of FOI and Privacy Acts Activities, AD–43 (202–252–5955).
Leslie Bordon Greenspan, Attorney Advisor, General Counsel, GC–41 (202–252–8618).

In the **Federal Register** of September 16, 1980, appearing at 45 FR 61576, the following corrections are made to § 1008.10:

1. On page 61581, columns two and three, the paragraphs designated as "(b), (c), (d), (e) and (f)" should be redesignated to read: "(d), (e), (f), (g) and (h), respectively.

Issued in Washington, D.C., June 11, 1981.

William S. Heffelfinger,

Assistant Secretary, Management and Administration.

[FR Doc. 81-18029 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 9H5205/T67; PH-FRL-1854-2]

Chlorpyrifos; Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule extends feed additive regulation related to the experimental use of the combined residues insecticide chlorpyrifos and its metabolite on dried citrus pulp. This rule will permit the marketing of dried citrus pulp while further data is collected on the subject pesticide

EFFECTIVE DATE: Effective on June 17, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 400, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7024).

SUPPLEMENTARY INFORMATION:
EPA issued a notice that published in the **Federal Register** of April 21, 1980 (45 FR 26695) that Dow Chemical Co., PO Box 1706, Midland, MI 48640 had filed a feed additive petition (FAP 9H5205) with the EPA. The petition established a regulation permitting the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the animal feed dried citrus pulp resulting from application of chlorpyrifos to growing lemons and oranges with a tolerance limitation of 15 parts per million (ppm).

The pesticide is considered useful for the purppose for which a regulation is sought. Therefore, the regulation is extended as set forth below. A related document (PP 9G2168/T305) extending temporary tolerances for chlorpyrifos on lemons and oranges appears elsewhere in this issue of the **Federal Register**.

Any person adversely affected by this regulation may, on or before July 17, 1981, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St. SW., Washington, D.C. 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.

As required by Executive Order 12291, EPA has determined that this rule in not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945). Effective on: June 17, 1981.

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

Dated: June 8, 1981.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, 21 CFR 561.98(b) is revised to read as follows:

§ 561.98 Chlorpyrifos.

* * * * *

(b) A tolerance is established for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl)phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on dried citrus pulp, intended for animal feed, at 15 parts per million, resulting from application of the pesticide to the growing raw agricultural commodities lemons and oranges in accordance with provisions of an experimental use permit that expires April 10, 1982.

* * * * *

[FR Doc. 81-17962 Filed 6-16-81; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Approval of the Abandoned Mine Reclamation Plan for the State of New Mexico Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On September 29, 1980, the State of New Mexico submitted to OSM its proposed abandoned mine land reclamation plan under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R, 43 F.R. 49932–49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Director of the Office of Surface Mining has determined that the New Mexico Abandoned Mine Reclamation Plan meets the requirements of SMCRA and the Abandoned Mine Land Reclamation Program. Accordingly, the Director of the Office of Surface Mining has approved the New Mexico Plan.

Final promulgation of this rule has been delayed beyond the time limit established in 30 CFR 884.14 in accordance with the President's Memorandum of January 29, 1981, directing all Federal agencies to postpone for 60 days from the date of the memorandum the promulgation of any final rule.

EFFECTIVE DATE: This approval is effective July 17, 1981.

ADDRESSES: Copies of the full text of the New Mexico Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region V, Brooks Towers, 1020–15th Street, Denver, Colorado 80202

New Mexico Department of Energy and Minerals, Mining and Minerals Division, 1222 Luisa Street, Santa Fe, New Mexico 87501

The Office of Surface Mining Reclamation and Enforcement, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Charles A. Beasley, Assistant Director, Abandoned Mine Lands, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone (202) 343–4012.

SUPPLEMENTARY INFORMATION:

General Background of Abandoned Mine Lands Program

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

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

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932, 49947, October 25, 1978). Under those regulations, the Director is required to review the plan, solicit and consider comments of other Federal agencies and the public, and either approve or disapprove the plan. If the Director disapproves the State plan, the State may resubmit a revised

reclamation plan at any time.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T consists of parts 900 through 950. Provisions relating to New Mexico are found in 30 CFR Part 931.

Background on the New Mexico Abandoned Mine Plan Submission

On May 31, 1979, a cooperative agreement between the New Mexico Department of Energy and Minerals and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the New Mexico Abandoned Mine Reclamation Plan would be assembled.

On September 11 and 12, 1980, the Department of Energy and Minerals held public meetings in Gallup and Santa Fe, New Mexico, for comments on New Mexico's proposed plan.

On September 29, 1980, the State of New Mexico submitted its proposed Abandoned Mine Reclamation Plan to OSM.

On October 29 and 30, 1980, and November 13, 1980, the New Mexico Department of Energy and Minerals submitted revisions to the New Mexico Reclamation Plan.

On November 3, 1980, the Office of Surface Mining conducted a public hearing in Albuquerque, New Mexico.

The revised pages contain several amendments and modifications to the original plan as a result of the discussions between representatives of the New Mexico Mining and Minerals Division and OSM. The necessary changes have been incorporated by a letter from the State of New Mexico received on February 9, 1981, and therefore comply with the requirement that the policies and procedures to be followed by the agency be incorporated into the reclamation plan. All of the documents mentioned above are available for public inspection at the office of OSM listed above under "Addresses" and at the Office of the Department of Natural Resources listed under "Addresses."

Notice of receipt of the submission initiating the Plan review was published October 3, 1980, (45 FR 65626–65628). The announcement requested public comments and scheduled a public hearing for November 3, 1980. The public hearing was held as scheduled. No public comments were made at the hearing.

On February 10, 1981, the Regional Director and on February 16, 1981, the Assistant Director for Abandoned Mine Lands Reclamation recommended to the Director that the New Mexico Reclamation Plan be approved.

The administrative record on the New Mexico Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Director's Findings:

1. In accordance with Section 405 of SMCRA the Director finds that New Mexico has submitted a plan for reclamation of abandoned mine properties on non-Indian lands in the State, and has the ability and necessary State legislation to implement the provisions of Title IV of SMCRA.

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

(a) The Department of Energy and Minerals, Mining and Minerals Division of the State of New Mexico has the legal authority, policy and administrative structure necessary to carry out the proposed plan;

(b) the proposed plan meets all the requirements of 30 CFR Chapter VII Subchapter R;

(c) the State has an approved regulatory program; and

(d) the proposed plan is in compliance with all applicable State and Federal laws and regulations.

3. The Director has solicited and considered the views of other Federal agencies having an interest in the plan as required by CFR 884.14(a)(2).

These agencies include the Bureau of Mines (BOM), National Park Service (NPS), Soil Conservation Service (SCS), U.S. Forest Service (USFS), U.S. Fish and Wildlife Service (FWS), and the U.S. Geological Survey (USGS).

It should be noted that the State of New Mexico does not specifically discuss reclamation of noncoal mined lands in their Abandoned Mine Land Plan. Further, it should be noted that the New Mexico statute, Section 8A, restricts the filing of liens to lands adversely affected by past coal mining practices and does not explicitly provide for the exercise of police power on noncoal mined lands. In a meeting between the Director of New Mexico's Mining and Minerals Division and OSM officials held May 6, 1981, the State indicated that it would seek statutory or other appropriate authority to enable it to file liens on noncoal lands reclaimed under the program. The Director believes that the States inherent police power can be practiced on such lands.

The Director therefore finds that the State of New Mexico lacks the legal authority it wishes to have in its program in order to carry out certain noncoal related reclamation activities consistent with Section 409 of SMCRA and 30 CFR 882.13(a) because it lacks lien authority on noncoal projects. The authority the States will enact will allow the State, itself, to determine the cirumstances in which a lien will be filed. Accordingly, until the lien authority is obtained, the Regional Director does not expect to approve grants for noncoal reclamation activities where liens would be placed. Further, the Director finds that all coal and noncoal reclamation projects anticipated by Section 409, 30 U.S.C. 1239 must be achieved prior to approval of grants for the construction of public facilities in communities impacted by coal development. An assertion of lack of explicit rights of entry and police power authority will not be considered as adequate justification to waive achievement of all remaining coal and noncoal projects prior to providing coal impact assistance.

Disposition of Comments:

The comments received on the New Mexico Abandoned Mine Plan during the public comment period raised the issues listed below, which were considered in the Director's evaluation of the New Mexico Plan as indicated:

1. The BOM asked if the "ID Number" in Exhibit A, page 15 of the Plan corresponds to the "Mine Number" in the Appendix.

Yes, the "Mine Number" in the Appendix corresponds to the "ID Number" on Exhibit A.

2. The OMB asks what the term "Problem Area" in Exhibit A, page 15 of the Plan denotes—Geographic location of the mine or the problem associated with the mine.

The term "Problem Area" describes the general geographic area including local land marks surrounding the identified problem.

3. The OMB asks what the terms "Historical Value" and "Archaeological Value" refer to in Exhibit A of the Plan—old mine workings, surrounding area or something else.

The above terms refer to the distance from the perimeter of the mine to the perimeter of the historic or archaeological site.

4. The BOM asks if the term "land use" in Exhibit A refers to the land surrounding the abandoned mine or to the use made of the reclaimed mine land.

The above term refers to the present use of land surrounding the problem area.

5. The NPS commented that since abandoned noncoal mines are provided for in the Office of Surface Mining

Abandoned Mine Land Reclamation Program, New Mexico's Reclamation Plan should evaluate the magnitude of the noncoal problems as well as discuss corrective procedures.

Though the Abandoned Mine Land Reclamation Program provides for reclamining abandoned noncoal mines, it does not require the State to prepare a separate program to reclaim noncoal lands. The provisions for reclaiming noncoal abandoned mine lands are found in 30 CFR 874.12(3)(b) and 884.12(b), and provide that noncoal reclamation may take place only after all coal mining reclamation has been accomplished or the Governor of the State has requested and the Director of OSM has determined that the reclamation is necessary for the protection of the public health and safety under 30 CFR 874.12(b).

If New Mexico wishes to change the scope of its reclamation plan to address reclamation of abandoned noncoal mines in the future, it can amend the reclamation plan, according to the procedures outlined in 30 CFR 884.15.

6. The NPS commented that where abandoned mine land projects may affect NPS lands or are adjacent to or within an NPS unit, they should be included in any reclamation activity undertaken. In addition, the NPS suggests that a specific procedure requiring NPS involvement be provided for in the Plan.

Where any reclamation activity affects NPS units the State of New Mexico or the Secretary will coordinate with the NPS.

Section 412(b) of SMCRA, however, does not require the State to design cooperative efforts as outlined by NPS but rather leaves such reclamation decisions to the discretion of the regulatory authority. The State will treat all projects on a case by case basis and where feasible, will enter into cooperative agreements with other agencies to undertake reclamation activities.

In addition, responsibility for reclaiming abandoned coal mine lands within an NPS unit lies with the Secretary and any of the contractual options available may be utilized to accomplish the reclamation.

7. The NPS commented that public participation in the grant application procedure should begin after the State filed the application on the premise the public would then better understand the proposal.

The purpose of inviting public review of the grant application is to seek advice and counsel from the public on the proposed content of the application before finalizing the application for submission and execution. New Mexico has allowed time for incorporation of the public's comments, suggestions and evaluations into the grant application before the final request for funds as required by 30 CFR 884.13(e). No change is therefore required in the State Reclamation Plan.

8. The NPS commented that the maps submitted by New Mexico pursuant to 30 CFR 884.13(f)(1) were at a scale of 1:1,000,000 rather than the 1:250,000 or larger as required by the OSM regulations.

The State of New Mexico has supplied a map at a scale of 1:1,000,000 which identifies U.S. Geological Survey quadrangle map sheets, where abandoned mine problems exist in the State. The quadrangle sheets have the information required by 30 CFR 884.13(f)(1) at the appropriate scale. The Office is therefore satisfied that the State has satisfactorily met the requirements of the regulations.

9. The USGS inquired whether the New Mexico Reclamation Plan, entitled *New Mexico's Reclamation Plan for Abandoned Mine Lands*, was properly titled since New Mexico's plan addresses only abandoned coal mines. Accordingly, USGS suggested New Mexico insert the word "coal" in their title.

Since New Mexico has the option to amend the scope of their Reclamation Plan to include abandoned noncoal mines, New Mexico may title their Reclamation Plan as they wish, without the burden of further Federal regulation.

10. The USGS comments that other hydrologic factors such as flooding of abandoned mines, groundwater changes in movement and quality and surface runoff disturbances could be considered in the ranking and selection of projects.

The suggestions have been brought to the attention of the State of New Mexico and the Plan amended.

11. The USGS comments that hydrologic problems and their abatement are not discussed as are other extensive problems.

Proposed projects are considered on a case by case basis and specific problems including hydrologic problems will be considered as they are identified in the development of a proposed project.

12. The USGS asked if uranium mines will be included in this Reclamation Plan.

The State of New Mexico may undertake reclamation of abandoned noncoal mined lands as provided for in 30 CFR 874.12(3)(b) and 884.12(b). The State may also amend their Reclamation Plan at any time according to 30 CFR 884.15.

The question of noncoal reclamation is also addressed under our response to comment number 5 above.

13. The USGS comments that water quality and sediment data from reclaimed spoil pits (p.111, paragraph 2) are being collected at the Navajo Mine. However, computation of sediment loads, they point out, may not be possible from the data being collected.

This discrepancy has been pointed out to the New Mexico Energy and Minerals Department, Mining and Minerals Division for correction.

14. The USGS comments that the "Water-Resources Information" section in the appendix could be expanded to include the USGS, Water Resources Divisions, WATSTORE computer file and the Environmental Protection Agency STORET file.

These suggestions have been brought to the attention of the regulatory authority, and USGS was added to the list of Federal agencies to be consulted on projects.

15. The SCS commented that on pages 18, 19 and 51 it is unclear whether the Plan is referring to the USDA-Soil Conservation Service or the New Mexico Natural Resource Department's Soil Conservation Division.

References on pages 18, 19 and 51 of the New Mexico Reclamation Plan refer to the New Mexico Soil Conservation Division.

16. The SCS commented that on pages 19 and 51 of the Plan the reference should be the Soil Conservation Service Field Office rather than the SCS District Office.

This editorial error has been pointed out to the regulatory authority and appropriate changes will be made to their Plan.

17. The Soil Conservation Service commented that ecosystem descriptions included in the New Mexico Reclamation Plan on pages 96 and 97 were incomplete and nonrepresentative of the total plant communities within the State.

New Mexico intended the descriptions to act only as a representation of the diverse ecosystem within the State. Ecosystems will be inventoried, evaluated and reported in detail on a project by project basis in full compliance with the National Environmental Protection Act and all other Federal and State laws applicable to environmental protection before Reclamation funds are granted.

18. The SCS comments that on page 103 of the Plan the second paragraph should begin "Most of the wildlife found

in the State are *potentially* present in the coal fields" rather than "are present in the coal fields."

This potential error has been pointed out to the regulatory agency.

19. The USFS suggested the New Mexico Reclamation Plan should describe in greater detail the coordination of reclamation planning with land use planning.

New Mexico will coordinate reclamation plans for Abandoned Mine Lands on a project basis. OSM will fund no project without an environmental evaluation submitted to the State Planning and Development Districts administered by a Council of Governments, for evaluation and comment, and an A-95 review certifying internal State review, including the Council's. Therefore, no further discussion is necessary.

20. The USFS commented that the coordination between the regulatory authority and the New Mexico Department of Game and Fish for identifying specific problems in the reclamation of individual abandoned mine sites and in the protection of endangered and threatened species was satisfactory. However, they suggested the State identify the more common types of problems associated with reclamation in respect to fish and wildlife. Also the USFS suggested further discussion of the positive wildlife and fish benefits.

The Plan is a general description of the abandoned mine land problems and a more specific and detailed analysis will be prepared on a project basis. In addition, positive wildlife and fish benefits will be discussed as part of the project ranking and selection process.

21. The FWS commented that the Plan is deficient in specifying how coordination will be implemented to assure compliance with the Endangered Species Act as well as other acts under the FWS.

The State of New Mexico has amended the Plan by providing that the New Mexico Department of Game and Fish will review each project. In addition, the FWS will be contacted regarding any chance of encounter with rare or endangered species in the Site Evaluation Matrix.

The OSM and FWS have signed a Memorandum of Understanding on June 10, 1980, 45 FR 40240 (June 13, 1980) that provides for formal consultation on those projects which may affect threatened or endangered species. OSM is satisfied that with these additional safeguards the New Mexico Plan adequately addresses the protection of threatened or endangered species.

22. The FWS commented that the Plan does not provide a general description of those reclamation areas containing threatened or endangered species.

In addition to the procedures outlined above, the regulatory authority and the Secretary will review all proposed projects with regard to their impact on threatened or endangered species on a project by project basis. Accordingly, OSM is satisfied that the Plan adequately addresses problems concerning threatened or endangered species.

23. The FWS pointed out that the list of endangered or threatened plant species included in the New Mexico Reclamation Plan is out of date and should be updated.

New Mexico amended their Plan to provide the current endangered and threatened species list for plants and animals in their State Reclamation Plan.

24. The Navajo Tribe reasserted jurisdiction rights of all Indian Tribes over those lands exterior to Federal Indian reservations, including those lands held in trust for the Nation by the Secretary, those lands owned in fee by the Indian, and Indian-held estates. The Navajo state the Indian Nations are authorized to develop an Abandoned Mine Land Reclamation Program for those lands claimed to be under their jurisdiction to the exclusion of the jurisdiction of the State in which they lie.

The question of jurisdiction for Indian lands is a complex issue and is currently under review by the Department as a part of the Special Report to be submitted to Congress under 30 U.S.C. 1300.

The Secretary has explicitly stated in his findings that the approval contained in 30 CFR 931.20 is limited to non-Indian lands in the State of New Mexico. Furthermore, the Secretary's approval of New Mexico's Abandoned Mine Lands Reclamation Plan in no way acts to grant or endorse any assertion by New Mexico of jurisdiction over mining on Indian lands. The Secretary has been informed by New Mexico that the State takes the position that assumption of responsibility for their Abandoned Mine Reclamation Program should not be deemed a waiver of any jurisdiction claims the State might have with the Indian Tribes (Administrative Record No. 29).

The Director has determined that the New Mexico Abandoned Mine Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates to policies, procedures and organization of the State's Abandoned Mine Plan. Therefore, under the Department of the Interior Manual 516.2.3(A)(1), the Director's decision on the New Mexico Plan is categorically excluded from the National Environmental Policy Act process. As a result, no Environmental Assessment or Environmental Impact Statement has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine lands reclamation projects under 30 CFR Part 886.

The Director has determined that this document is not a major rule under E.O. 12291 or 43 CFR Part 14 and, therefore, no regulatory analysis has been prepared on this action.

Certification of No Significant Economic Impact

The approval of the New Mexico Reclamation Plan has been found not to have significant economic effect on a substantial number of small entities. The regulation concerns only the approval of a reclamation plan and signifies the granting of exclusive responsibility to the State for implementing the provisions of their approved program. Therefore, in accordance with the Regulatory Flexibility Act and 43 CFR Part 14, I certify that the rule described above will not have a significant economic effect on a substantial number of small entities.

Dated: May 20, 1981.

Andrew V. Bailey,

Acting Director, Office of Surface Mining.

Part 931 is amended by adding § 931.20 to read as follows:

PART 931—NEW MEXICO

§ 931.20 Approval of the New Mexico Abandoned Mine Reclamation Plan.

The New Mexico Abandoned Mine Reclamation Plan as submitted on September 29, 1980, and amended February 4, 1981, is approved. Copies of the approved program are available at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202

New Mexico Department of Energy and Minerals, Mining and Minerals Division, 1222 Luisa Street, Santa Fe, New Mexico 87501

Office of Surface Mining Reclamation and Enforcement, Room 153, 1951 Constitution Avenue NW., Washington, D.C. 20240

[FR Doc. 81-17918 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[SWH-FRL 1827-7]

State and Local Assistance; Program Grants; Class Deviation

AGENCY: Environmental Protection Agency.

ACTION: Deviation to rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a class deviation from a provision of its program grant regulations to allow EPA's share of the hazardous waste program to be 100 percent of the allowable cost for development activities for fiscal year 1982. We are publishing the complete text of the deviation as part of this document.

DATE: The class deviation became effective on June 8, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Harvey Pippen, Jr., Director, Grants Administration Division (PM-216), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 755-0850.

Dated: June 5, 1981.

Roy L. Gamse,

Acting Assistant Administrator for Planning and Management (PM-208).

Dated: June 9, 1981.

James N. Smith,

Acting Assistant Administrator for Water and Waste Management (WH-556).

United States Environmental Protection Agency

Date: June 8, 1981
Subject: Class Deviation from 40 CFR 35.714(b)(2)
From: Evelyn T. Thorton, Acting Director, Grants Administration Division (PM-216)
To: Regional Administrators

Action

I am approving a class deviation from 40 CFR 35.714(b)(2) of the Solid and Hazardous Waste Management Program Support Grants Regulations. This class deviation will permit States to receive 100 percent of the allowable program cost for development activities for FY 1982.

Background

Section 35.714(b)(2) limits EPA's award of assistance for FY 1982 and subsequent fiscal years to 75 percent of the allowable program cost. When the regulation was issued, EPA believed that by FY 1982, all States would be managing a fully authorized hazardous waste program. However, most States will not have full authorization and will need to continue developmental activities past FY 1981.

Recognizing the cost of developing a hazardous waste program and the time required to secure adequate State funds, EPA's Office of Solid Waste wants to continue to award assistance of 100 percent of the cost of eligible developmental activities for FY 1982. A class deviation is necessary to permit this in FY 1982.

Dated: June 5, 1981.
Concur:

Roy L. Gamse.

Acting Assistant Administrator for Planning and Management (PM-208).

Dated: June 9, 1981.
Concur:

James N. Smith,

Acting Assistant Administrator for Water and Waste Management (WH-556).

[FR Doc. 81-17806 Filed 6-16-81; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 180

[PP OFO997/R324; PH-FRL-1854-4]

5-Ethoxy-3-Trichloromethyl-1,2,4-Thiadiazole; Tolerances and Exemptions From Tolerances for Pesticide Chemicals In or On Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on cottonseed at 0.2 part per million (ppm). This regulation was requested by Olin Chemicals. This regulation establishes a maximum permissible level for residues of the fungicide on cottonseed.

EFFECTIVE DATE: Effective on June 17, 1981.

ADDRESS: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St. SW., Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM)21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Room 418, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7060).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of October 1, 1976 (41 FR 43421) that Olin Chemicals, 120 Long Ridge Road, Stamford, CT 06094, had submitted a pesticide petition to the EPA. This petition proposed that 40 CFR Part 180 be amended by the establishment of a tolerance for the combined residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the raw agricultural commodity cottonseed at 0.2 ppm. No comments or request for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated. The scientific data considered in support of the tolerance were a 2-year rat oncogenic study (negative, with a no-observed-effect-level (NOEL) of 80 ppm), a 2-year dog feeding study (NOEL of 100 ppm), a rat reproduction study (NOEL of equal to or greater than 80 and less than 640 ppm), a rabbit teratology study (negative at 15 milligrams (mg)/kilogram (kg), and a mutagenic (Ames) study (equivocal or slightly positive). Based on the dog feeding study, the NOEL is 100 ppm. Using a 100-fold safety factor, the allowable daily intake (ADI) is 0.0250 mg/kg/day and the maximum permissible intake (MPI) is 1.5 mg/day for a 60-kg person. Established tolerances and this tolerance result in a maximum theoretical exposure of 0.0041 mg/day for a 60-kg person and utilize 0.27 percent of the ADI. Tolerances have previously been established for the combined residues of 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the raw agricultural commodities, avocado at 0.15 ppm and strawberries at 0.2 ppm.

The establishment of a permanent tolerance of 0.2 ppm for the combined residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole makes the interim tolerance under § 180.319 inadequate. Therefore, this tolerance of 0.3 ppm is being deleted.

The metabolism of 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole is adequately understood, and an adequate analytical method is available for enforcement purposes (gas-liquid chromatography with an electron affinity detector for detection of the parents; a polargraphic method is available for the mono-acid metabolite).

Based on the information cited above, the agency has determined that the establishment of tolerances for the combined residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on raw agricultural

commodity cottonseed will protect the public health. Therefore, the regulation is established by amending 40 CFR 180.370 as set forth below.

Any person adversely affected by the regulation may, on or before July 17, 1981, 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 legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirement of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the administrator has determined that the regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economoic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: June 17, 1981.

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

Dated: June 8, 1981.

Edwin L. Johnson

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended as follows:

§ 180.319 [Amended]

1. By removing "5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole".

2. By amending 40 CFR 180.370 by adding "cottonseed" to read as follows:

§ 180.370 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cottonseed	0.2
* * * * *	

[FR Doc. 81-17963 Filed 6-16-81; 8:45 am]

BILLING CODE 6560-32-M

41 CFR Part 15-3

[AS-FRL-1854-1]

Letter Contracts

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule amends 41 CFR, § 15-3.408, entitled "Letter Contract" to permit the contracting officer to issue a final decision for the price or estimated cost and fixed fee in the event the Government and the contractor cannot agree on the definitization of a letter contract. Previously the contracting officer was required to terminate the letter contract in the event of failure to reach agreement. This final rule also deletes 41 CFR, § 15-16.553, which prescribes the format for a letter contract.

EFFECTIVE DATE: Effective June 17, 1981.

FOR FURTHER INFORMATION CONTACT: Edward Murphy, Procurement and Contracts, Management Division (PM-214), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202/755-0900).

SUPPLEMENTARY INFORMATION: The Agency has not invited public comment on this rule because its subject is limited to a matter of internal Agency procedure.

May 25, 1981.

Roy N. Gamse,

Acting Assistant Administrator for Planning and Management.

§ 15-3.408 [Amended]

1. Accordingly, 41 CFR, § 15-3.408 is amended by revising paragraph (a)(3) to read as follows:

(a) * * *

(3) A letter contract shall be superseded by a definitive contract within ninety (90) days from the date the letter contract is accepted, unless a period of performance in excess of ninety (90) days is authorized by the chief officer responsible for procurement at the contracting activity. The letter contract shall specify the date by which the definitive contract is to be negotiated. In the event the Government and the contractor, after exhausting all reasonable efforts, cannot negotiate a definitive contract within ninety (90) days from the date of acceptance, the contracting officer with the approval of the head of the procuring activity shall issue a final decision as to a reasonable price or estimated cost and fixed fee for the letter contract work. The decision is subject to appeal under the disputes clause of the contract. The contracting officer shall issue the decision within ninety (90) days from the date of acceptance of the letter contract, unless the ninety (90) day period is extended by the chief officer responsible for procurement at the procuring activity.

* * * * *

2. 41 CFR 15-3.408(g) is amended by removing the sentence "A format for a letter contract is illustrated in § 15-16.533.

3. 41 CFR Section 15-3.408 is amended by deleting paragraph (c).

§ 15-16.553 [Removed]

4. 41 CFR Part 15-16 is amended by removing § 15-16.553.

[FR Doc. 81-17965 Filed 6-16-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6077]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Johnson, National Flood Insurance Program, (202) 755-5581 or EDS Toll Free Line 800-638-6620 for Continental U.S. (except Maryland); 800-638-6831 for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; and 800-492-6605 for Maryland, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program

(NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois:				
Calhoun	Brussels, village of	170747B	May 19, 1981, suspension withdrawn	July 21, 1978.
Do	Hoffman Estates, village of	170107B	do	Sept. 20, 1974 and Aug. 27, 1976.
Cook	Justice, village of	170112B	do	Mar. 22, 1974 and Feb. 20, 1976.
Lake	Long Grove, village of	170380B	do	Apr. 5, 1974 and Aug. 27, 1976.
Cook and Du Page	Roselle, village of	170216B	do	Sept. 7, 1973 and Aug. 8, 1975.
Indiana:				
Hamilton	Carmel, city of	180081C	do	Aug. 9, 1974, Mar. 5, 1976 and Mar. 10, 1978.
Tipton and Madison	Elwood, city of	180152C	do	Dec. 28, 1973, Oct. 24, 1975 and Mar. 16, 1979.
Iowa: Humboldt	Humboldt, city of	190155B	do	Apr. 5, 1974 and Feb. 20, 1976.
Louisiana:				
Assumption Parish	Unincorporated areas	220017A	do	Apr. 8, 1977.
Terrebonne Parish	Houma, city of	220220C	do	Nov. 28, 1973, Apr. 9, 1976 and Oct. 31, 1978.
Maine:				
Cumberland	Cumberland, town of	230162B	do	Aug. 30, 1977.
Oxford	Otisfield, town of	230203B	do	Jan. 31, 1975 and Apr. 2, 1976.
Cumberland	Standish, town of	230207B	do	Apr. 18, 1975 and Nov. 19, 1976.
Minnesota:				
Clay	Dilworth, city of	270080B	do	May 17, 1974 and June 4, 1976.
Isanti	Unincorporated areas	270197A	do	
Hennepin	Minnetonka, city of	270173B	do	Aug. 23, 1974 and July 23, 1976.
Olmstead	Unincorporated areas	270626A	do	
Stearns	Sauk Centre, city of	270459B	do	Mar. 8, 1974 and Oct. 31, 1975.
Missouri:				
St. Louis	Moline Acres, city of	290370B	do	June 14, 1974 and Jan. 2, 1976.
Do	Wellston, city of	290395B	do	Dec. 17, 1973 and June 18, 1976.
Montana: Carbon	Red Lodge, city of	300007B	do	May 24, 1974 and Nov. 14, 1975.
New Jersey:				
Morris	Boonton, town of	340335B	do	May 28, 1974 and June 4, 1976.
Ocean	Berkeley, township of	340369B	do	Aug. 2, 1974 and Aug. 13, 1976.
Morris	Morristown, town of	340352C	do	Feb. 1, 1974, June 18, 1976 and Nov. 26, 1976.
Ocean	Ocean Gate, borough of	340384B	do	May 31, 1974 and June 3, 1977.
Monmouth	Red Bank, borough of	340321B	do	Mar. 8, 1974 and Mar. 19, 1976.
Ohio: Lucas	White House, village of	390639B	do	Mar. 29, 1974 and Aug. 6, 1976.
Oklahoma: Oklahoma	Midwest City, city of	400405C	do	June 3, 1977 and Mar. 7, 1978.
Pennsylvania:				
Northampton	Allen, township of	421928A	do	May 21, 1976.
Lancaster	Caernarvon, township of	421763A	do	Oct. 29, 1976.
Do	Ephrata, township of	421208B	do	Sept. 20, 1974 and July 23, 1976.
Erie	Mill Village, borough of	422417A	do	Apr. 11, 1975.
Do	North East, township of	421368B	do	Sept. 20, 1974 and Sept. 24, 1976.
Allegheny	Rosslyn Farms, borough of	420069B	do	Jan. 16, 1974 and May 21, 1976.
Lehigh	Upper Milford, township of	421815B	do	Nov. 1, 1974 and Nov. 14, 1975.
Erie	Washington, township of	421372C	do	Oct. 18, 1974, Oct. 3, 1975 and June 2, 1978.
Do	Wattsburg, borough of	420455B	do	Aug. 16, 1974 and Mar. 19, 1976.
Lancaster	West Earl, township of	420959B	do	Apr. 12, 1974 and Jan. 14, 1977.
Tennessee: Cheatham	Unincorporated areas	470026B	do	Sept. 9, 1977.
Texas:				
Cass	Atlanta, city of	480117B	do	June 28, 1974 and June 4, 1976.
Brazos	Bryan, city of	480082B	do	Mar. 15, 1974 and July 18, 1975.
Guadalupe	Cibolo, city of	480267B	do	Feb. 1, 1974 and Apr. 2, 1976.
Gillespie	Fredericksburg, city of	480252B	do	Apr. 12, 1974 and Dec. 26, 1975.
Utah:				
Weber	Plain City, city of	490217B	do	June 3, 1977.
Davis	South Weber, city of	490049C	do	July 26, 1974, Apr. 2, 1976 and Sept. 12, 1978.
Weber	Unitah, city of	490192A	do	Oct. 29, 1976.
Virginia: Franklin	Unincorporated areas	510061A	do	Apr. 25, 1975.
Washington: Clark	Ridgefield, city of	530298B	do	Dec. 24, 1976.
Wisconsin:				
Pierce and St. Croix	River Falls, city of	550330A	do	Oct. 12, 1973.
Brown	Wrightstown, village of	550025A	do	Aug. 22, 1975.
California: San Diego	Santee, city of	060703 new	May 18, 1981, emergency	
Illinois: McHenry	McHenry Shores, village of	170630A	do	Apr. 27, 1979.
Pennsylvania:				
Indiana	Glen Campbell, borough of	422437	do	Jan. 24, 1975.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Susquehanna	Harmony, township of	422082B	Feb. 2, 1976, emergency; Jan. 16, 1981, regular; Jan. 16, 1981, suspension; May 18, 1981, reinstated.	June 10, 1977.
Ohio: Gallia	Rio Grande, village of	390879 new	May 20, 1981, emergency	
Pennsylvania:				
Pike	Palmyra, township of	421968A	do	Dec. 13, 1974.
Indiana	Grant, township of	421717	May 22, 1981, emergency	Jan. 31, 1975.
Alaska	Juneau, city and borough	020009B	May 22, 1970, emergency; Feb. 4, 1981, regular; Feb. 4, 1981, suspension; May 26, 1981, reinstated.	May 9, 1970 and May 20, 1977.
Indiana: Morgan	Unincorporated areas	180176A	May 27, 1981, emergency	Dec. 20, 1974 and Jan. 20, 1978.
New York: Jefferson	Champion, town of	360328C	do	May 31, 1974, Feb. 7, 1975 and Apr. 2, 1976.
Texas: Waller	Hempstead, city of	481045	do	July 30, 1976.
Arkansas: Crawford	Mulberry, city of	050354A	May 27, 1981, emergency; May 27, 1981, regular.	Nov. 26, 1976 and Apr. 1, 1981.
Pennsylvania: Beaver	Hookstown, borough of	422319B	May 29, 1981, emergency	Jan. 31, 1975 and Dec. 12, 1980.
Texas: Fort Bend	Fort Bend County Municipal Utility District No. 25.	481570 new	do	

Note.—The Township of Americus and Township of Blooming, Grand Forks County, North Dakota is entering the Emergency Program under Grand Forks County's Application. Effective date May 27, 1981.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 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: June 1, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-17932 Filed 6-16-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, P.E., National Flood Insurance Program, (202) 755–5585, Federal Emergency Management Agency, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued 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 60.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	City of Bristol, Hartford County (Docket No. FEMA-5785)	Pequabuck River	Downstream Corporate Limits	*196
			Central Street (Upstream side)	*208
			Confluence w/Copper Mine Brook	*216
			Andrews Street (Upstream side)	*225
			Broad Street (Upstream side)	*239
			Middle Street (Upstream side)	*251
			Downs Street (Upstream side)	*263
			East Street (Upstream side)	*275
			Mellen Street (Upstream side)	*286
			235 feet downstream from Main Street at culvert outlet.	*293
			365 feet downstream from West Street at culvert inlet	*312
			Confluence of Tributary 1	*321
			Jacobs Street (Upstream side)	*338
			Tulip Street (Upstream side)	*352
			Dutton Avenue (Upstream side)	*357
			Terryville Road (Upstream side)	*392
			Private Road (off Terryville Road) Upstream side	*412

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Clark Avenue Extended	*440
			1,452 feet downstream from upstream Corporate Limits.	*491
			Upstream Corporate Limits	*508
		North Creek	180 feet upstream of North Farmington Street at culvert inlet.	*349
			North Main Street (Upstream side)	*360
			James Street (Upstream side)	*373
			Franklin Street (Upstream side)	*385
			Private Road (Upstream side)	*404
			Conrail (Upstream side)	*423
			Private Road (Upstream side)	*431
			1,589 feet upstream from Private Road (Limit of Study)	*472
		Copper Mine Brook	Confluence w/Pequabuck	*216
			Confluence of Tributary A	*223
			West Washington Street (Upstream side)	*229
			Foot bridge (Downstream side)	*239
			Artisan Street (Upstream side)	*245
			Farmington Avenue (Upstream side)	*255
			Stevens Street (Upstream side)	*273
			Jerome Avenue (Upstream side)	*288
			Dam	*307
			Upstream Corporate Limits	*320
		Polkville Brook	Confluence w/Copper Mine Brook	*256
			Private Road (Upstream side)	*269
			Jerome Avenue (Upstream side)	*280
			Warner Street (Upstream side)	*297
			364 feet upstream from Warner Street (Limit of Study)	*318
		Negro Hill Brook	Confluence w/Copper Mine Brook	*257
			Jerome Avenue (Upstream side)	*278
			976 feet upstream of Jerome Avenue	*294
			Falls Brook Road (Upstream side)	*305
			1,441 feet upstream of Falls Brook Road (Limit of Study).	*328
		Tributary A to Copper Mine Brook	Confluence w/Copper Mine Brook	*223
			Mechanic Street (Upstream side)	*241
			Andrews Street (Upstream side)	*248
		Tributary B to Copper Mine Brook	Confluence w/Copper Mine Brook	*246
			Stafford Avenue (Upstream side)	*254
Maps available for inspection at the Office of the City Clerk, City Hall, Bristol, Connecticut.				
Pennsylvania	Scottdale, Borough, Westmoreland County (Docket No. FI-5405).	Jacobs Creek	Downstream Corporate Limits	*1,028
			Confluence of Stauffer Run	*1,035
			Upstream Corporate Limits	*1,035
		Stauffer Run	Mt. Pleasant Road	*1,035
			Upstream Corporate Limits	*1,038
Maps available for inspection at the Borough Building, 10 Mount Pleasant Road, Scottdale, Pennsylvania.				

(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: June 1, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-17933 Filed 6-16-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; New York and South Dakota

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to 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).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 755-5585, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection 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). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	South Corning, Village, Steuben County (Docket No. FEMA-5912).	Chemung River	Downstream Corporate Limits	*918
			Upstream Corporate Limits	*920
Maps available for inspection at the Village Office, 1 Clark Street, Corning, New York.				
South Dakota	Rapid City (City), Pennington County FEMA-6000	Lime Creek	Intersection of Lime Creek and Hall Street	*3333
			160 feet downstream of intersection of Lime Creek and Academy Road.	*3531
		Robbinsdale Drain	Intersection of Robbinsdale Drain and State Highway 79.	*3193
			Intersection of Robbinsdale Drain and Centennial Street.	*3310
		Arrowhead Drain	70 feet upstream of intersection of Arrowhead Drain and Tomahawk Drive.	*3342
			Intersection of Arrowhead Drain and Horsecreek Road	*3419
		Rapid Creek	50 feet downstream of intersection of Rapid Creek and East St. Patrick Street.	*3145
			Intersection of Rapid Creek and Jackson Boulevard	*3313
			30 feet downstream of intersection of Rapid Creek and State Highway 44 (Upstream Crossing).	*3418
		Red Rock Canyon	50 feet upstream of intersection of Red Rock Canyon and Copper Hill Drive.	*3390
			20 feet upstream of intersection of Red Rock Canyon and Idlewild Court.	*3418
		Cleghorn Canyon	Intersection of Cleghorn Canyon and State Highway 44.	*3393
Maps available for inspection at City hall, 22 Main Street, Rapid City, South Dakota 57701.				

(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: June 1, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-17935 Filed 6-16-81; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[RM-3451]

Private Land Mobile Radio Services; Elimination of the Antenna Height Versus ERP Table Affecting Stations in the Los Angeles Urbanized Area

AGENCY: Federal Communications Commission.

ACTION: Order granting stay of compliance.

SUMMARY: This Order stays the effectiveness of compliance with FCC Rule 90.307(f), 47 CFR 90.307(f) pending action on a Petition for Reconsideration filed by the National Mobile Radio Association regarding FCC denial of the relief requested in RM-3451. This petition sought deletion of the Antenna Height vs. Effective Radiated Power (ERP) Table for private land mobile radio service licensees operating in the 470–512 MHz band in the Los Angeles urbanized area. This Order is needed to prevent unnecessary degradation of service in the interim, should the Commission act favorably on the Petition for Reconsideration.

DATE: This Order becomes effective June 1, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Keith Plourd, Private Radio Bureau, Washington, D.C. 20554, (202) 632–6497, Room 5120.

SUPPLEMENTARY INFORMATION:.

Adopted: May 6, 1981.

Released: May 21, 1981.

1. The National Mobile Radio Association (NMRA) has requested a Stay in the effective date of § 90.307(f) of the Rules (47 CFR 90.307(f)) pending Commission consideration of NMRA's petition for reconsideration of the Commission's Memorandum Opinion and Order in RM-3451. The Chief of the Private Radio Bureau, acting on delegated authority, grants that request.

2. In 1974 the Commission adopted rules limiting the power of land mobile stations in the 470–512 MHz band located at high elevations in the Los Angeles area. See 47 CFR 90.307(f). The rules established a height-vs.-ERP table, under which the permissible power level decreases as a station's elevation increases above 1,500 feet above sea level (457 m). The limitations were designed to maximize spectrum efficiency by facilitating frequency re-use, while providing reasonable singnal quality. *Land Mobile Channels 470–512 MHz*, 49 FCC 2d 1300, 1303–04 (1974).[1]

3. In June, 1979, the NMRA (then called the California Mobile Radio Association) petitioned the Commission to delete § 90.307(f). The Chief of the Private Radio Bureau, acting on delegated authority, extended the deadline for grandfathered licensees to comply with the rule until December 31,

[1] "Reasonable signal quality", here, refers to signal quality within 30 miles of the base station. This is so because in the 470–512 MHz band, mobiles may not operate further than 30 miles from their associated base station(s). 47 CFR 90.305(b).

1980, or until the Commission acted on NMRA's rule making request.

On October 21, 1980, the Commission acted on and denied NMRA's request. FCC 80-606. NMRA then filed a Petition for Reconsideration and a motion for stay of the effectiveness of the rule, until the Commission acted on its Petition for Reconsideration. We are granting this request.

4. The effectiveness of the requirement that grandfathered stations conform with § 90.307(f) is hereby stayed, therefore, until the Commission has acted on the NMRA's Petition for Reconsideration.

Carlos V. Roberts,

Chief, Private Radio Bureau.

§ 90.307 [Stayed].

Therefore, the effectiveness of § 90.307(f) is stayed as of June 1, 1981.

[FR Doc. 81-17947 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 219

Seizure, Forfeiture, and Disposal Procedures

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule.

SUMMARY: A number of laws enforced by NOAA provide for seizure and forfeiture of fish, wildlife, and other property involved in violations of law. This revision of NOAA's forfeiture regulations clarifies existing procedures and establishes uniform procedures for disposal of forfeited and abandoned items seized under laws administered by NOAA.

DATES: Effective date: July 17, 1981.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell or Patricia Kraniotis, NOAA Office of General Counsel (GCEL), Page Building 1, Room 275, 2001 Wisconsin Avenue NW., Washington, D.C. 20235. Telephone (202) 254-8350.

SUPPLEMENTARY INFORMATION: On July 1, 1980, notice was published (45 FR 44352) of a proposal to revise and clarify procedures for the seizure and forfeiture of fish, wildlife, and other property seized under the various statutes administered by NOAA. Also proposed were uniform procedures for the disposal of such forfeited and abandoned items under the Fish and Wildlife Improvement Act of 1978, 16 USC 7421(c).

Public comments were invited until July 31, 1980. None was received.

The proposed rule included minor technical amendments to Subparts A and B of Part 219 and the addition of a new Subpart C covering disposal of forfeited and abandoned items. The purpose of Subpart C is to establish uniform procedures for disposal of the items by such methods as loan, gift, sale, or destruction. The procedures are necessary both to eliminate unnecessary expense and overcrowding at government storage facilities and to provide a uniform means of accommodating government agencies and other public institutions wishing to use these items for scientific, educational, and public display purposes and to increase public awareness of wildlife laws and their goals.

This rule does not allow for sale of marine mammal or endangered species items, since it is the intent of the statutes governing them to eliminate trade in such items. Further, sale of fish under the Magunson Fishery Conservation and Management Act and other fisheries laws may also be subject to special rules, such as 50 CFR 621.2.

NOAA expects that the majority of disposals of items other than fish and fish products will be by loan. Interested persons may inquire at any NOAA Regional Office or may respond to the periodic notices of availability published by NOAA in the **Federal Register**. Any such loan will be subject to these regulations and to the terms in any loan agreement executed pursuant to these regulations. For example, loan applicants must agree to use the items only for scientific, educational, or public display purposes, and must demonstrate an ability to provide adequate care and security. Reloaning of such items to another party is subject to several restrictions under the regulations.

The regulations also provide for destruction of certain items in order to reduce expenses and eliminate overcrowding of government storage facilities. The regulations limit destruction of handicrafted items to those valued at less than $100. Only items that are not subject to acceptable loan applications, or are not expected to be subject to loan because of previous lack of public interest in similar items, may be destroyed.

Minor technical changes have been made from the proposed rules. After further consideration, Section 219.24 was revised to provide for the loan of seized items to foreign governments, as allowed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora. While such loans were possible under the proposed version of this section, this provision is now explicit. As with other loans under this Part, the United States will retain title to the loaned items. In addition, section 219.2 has been changed to include the Marine Protection, Research, and Sanctuaries Act of 1972 as among the laws covered by the Part. Definitions of "abandon," "waiver of any claim," and "forfeiture" have been added in order to make the final rules clearer and more precise. Also, § 219.28 was reworded to clarify its intent. The changes are technical, and do not alter the substance of the proposed rules.

The NOAA Administrator does not consider issuance of this final rule to be a major federal action under the National Environmental Policy Act of 1969. Hence, preparation of an environmental impact statement is not required.

This final rule does not require additional collecting of information from individuals, and is therefore not subject to the requirements of the Paperwork Reduction Act of 1980.

Nor does this final rule have a significant economic impact on any small businesses, organizations, or governmental jurisdictions within the meaning of the Regulatory Flexibility Act. Hence, preparation of a Regulatory Flexibility Analysis is not required.

Because the amendments to this Part 219 are solely concerned with NOAA's internal management of wildlife and other items already seized under other statutory and regulatory authorities, the NOAA Administrator has determined that these amendments are exempt from the provisions of Executive Order 12291 of February 17, 1981. Preparation of a Regulatory Impact Analysis is, therefore, not required.

Signed at Washington, D.C., this 12th day of June 1981.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

Accordingly, 50 CFR Part 219 is amended by revising Subparts A and B, and by adding Subpart C, to read as follows:

PART 219—SEIZURE, FORFEITURE, AND DISPOSAL PROCEDURES

Subpart A—Introduction

Sec.

219.1 Purpose of regulations.
219.2 Scope of regulations.

Subpart B—Holding, Bonding, and Return of Certain Wildlife or Other Property

Sec.
219.11 Notification of seizure.
219.12 Seizure by Customs.
219.13 Bonded release.
219.14 Return of seized wildlife or other property.
219.15 Abandonment provisions.

Subpart C—Disposal of Forfeited or Abandoned Items

219.20 Delivery to Administrator.
219.21 Definition of disposal.
219.22 Purposes of disposal.
219.23 Disposal of evidence.
219.24 Loans to institutions.
219.25 Loans to individuals.
219.26 Selection of loan recipients.
219.27 Loan agreement.
219.28 Temporary reloans; documents to accompany item.
219.29 Destruction of items.
219.30 Food items.
219.31 Record-keeping.

Authority: Black Bass Act, 16 U.S.C. 851–856; Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407; Endangered Species Act of 1973, 16 U.S.C. 1531–1543; Lacey Act, 18 U.S.C. 42–44, 3054, 3112; Fish and Wildlife Improvement Act of 1978, 16 U.S.C. 742*l*(c); Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971g; Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882; Northern Pacific Halibut Act of 1937, 16 U.S.C. 772–772j; North Pacific Fisheries Act of 1954, 16 U.S.C. 1021–1032; Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776–776f; Sponge Act, 16 U.S.C. 781–785; Tuna Conventions Act of 1950, 16 U.S.C. 951–961; Whaling Convention Act of 1949, 16 U.S.C. 916–916*l*; Fur Seal Act of 1966, 16 U.S.C. 1151–1187; Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434.

Subpart A—Introduction

§ 219.1 Purpose of regulations.

The regulations in this part provide rules and procedures for the seizure, holding, bonding, abandonment, and forfeiture of wildlife and other property, which under certain laws enforced by the National Marine Fisheries Service are subject to seizure and forfeiture.

§ 219.2 Scope of regulations.

The regulations in this Part apply to fish, wildlife, or any other items (referred to as "items" hereinafter) which have been forfeited or abandoned to the United States under the following laws and regulations issued thereunder:

(a) Endangered Species Act of 1973, 16 U.S.C. 1531–1543;

(b) Marine Mammal Protection Act of 1972, 16 U.S.C. 1361–1407;

(c) Black Bass Act, 16 U.S.C. 851–856;

(d) Lacey Act, 16 U.S.C. 42–44, 3054, 3112;

(e) Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801–1882;

(f) Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971–971g;

(g) Northern Pacific Halibut Act of 1937, 16 U.S.C. 772–772j;

(h) North Pacific Fisheries Act of 1954, 16 U.S.C. 1021–1032;

(i) Sockeye Salmon or Pink Salmon Fishing Act of 1947, 16 U.S.C. 776–776f;

(j) Sponge Act, 16 U.S.C. 781–785;

(k) Tuna Conventions Act of 1950, 16 U.S.C. 951–961;

(l) Whaling Convention Act of 1949, 16 U.S.C. 916–916*l*;

(m) Fur Seal Act of 1966, 16 U.S.C. 1151–1187;

(n) Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434.

The regulations in this Part are in addition to, and not in contradiction of, any special rules which may provide for the sale of fish and perishable items seized under various of these laws.

Subpart B—Holding, Bonding, and Return of Certain Wildlife or Other Property

§ 219.11 Notification of seizure.

Except where the owner or consignee is personally notified or seizure is made pursuant to a search warrant, the Administrator, or his or her designee, shall, as soon as practicable following his seizure or other receipt of seized wildlife or other property, mail a notification of seizure by registered or certified mail, return receipt requested, to the owner or consignee, if known. Such notification shall describe the seized wildlife or other property, and shall state the time, place, and reason for the seizure.

§ 219.12 Seizure by Customs.

Any authorized employee or officer of the U.S. Customs Service who has seized any wildlife or other property shall deliver such seizure to the Enforcement Division (See § 217.23), or its designee, who shall either hold such seized wildlife or other property or arrange for its proper handling and care.

§ 219.13 Bonded release.

The Administrator, or his or her designee, may, in his or her sole discretion, accept an appearance bond or other security in place of wildlife or other property seized. Said bond or security may contain such additional conditions as may be appropriate. Such bond or security may be in an amount up to $10,000 per offense and shall only be allowed where the Administrator, or his or her designee, determines either that the health or safety of any wildlife so requires, or that the release of the seized wildlife or other property would not frustrate the purposes of the statute.

§ 219.14 Return of seized wildlife or other property.

If, at the conclusion of the appropriate proceedings, the seized wildlife or other property is to be returned to the owner or consignee, the Administrator, or his or her designee, shall issue a letter or other document authorizing its return. This letter or other document shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the owner or consignee, the seized property, and, if appropriate, the bailee of the seized wildlife or other property. It shall also provide that upon presentation of the letter or other document and proper identification, the seized wildlife or other property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements.

§ 219.15 Abandonment provisions.

When any wildlife or other property is subject to seizure and forfeiture, a blank assent to forfeiture form (Customs Form 4607, or a similar National Oceanic and Atmospheric Administration form) may be given or sent, with the notification required by § 218.11 or by § 219.11 to the owner thereof. The owner may voluntarily abandon the wildlife or other property to the Government by executing and returning the assent to forefeiture form. Such abandonment will be considered by the Administrator or his or her designee in the disposition of the case, and may be the basis for the compromise of any proposed assessment of a civil penalty under Part 218.

Subpart C—Disposal of Forfeited or Abandoned Items

§ 219.20 Delivery to Administrator.

Upon forfeiture of any fish, wildlife, parts or products thereof, or other property to the United States, or the abandonment or waiver of any claim to any such property, it shall be delivered to the Administrator, or his or her designee, for storage or disposal according to the provisions of this subpart.

§ 219.21 Definitions.

For the purpose of this Subpart C:

(a) "Abandon" means an owner's surrender of a seized item to NOAA by, but not limited to, expressly waiving any claim to the item, refusing or otherwise avoiding delivery of mail concerning the seizure (as by giving a false name or address), or failing for more than 180 days to make or maintain a claim to the item. An item will be declared finally abandoned, without

recourse, upon a finding of abandonment, as defined here.

(b) "Disposal" includes, but is not limited to, loan, gift, sale or destruction of an item, except that no marine mammal or endangered species item may be sold.

(c) "Forfeiture" includes, but is not limited to, surrender or relinquishment of any claim to an item by written agreement, or otherwise; or extinguishment of any claim to, and transfer of title to an item to the Government by court order or by order of the NOAA Administrator (or designee) under a statute.

(d) "Waiver of any claim" includes, but is not limited to, failing to respond within 120 days of issuance of a Government Notice concerning the seizure; or voluntarily relinquishing any interest in an item by written agreement, or otherwise. An item will be declared finally abandoned, without recourse, upon a finding of waiver, as defined here.

§ 219.22 Purposes of disposal.

Disposal procedures may be used to alleviate overcrowding of evidence storage facilities, and to avoid the accumulation of seized items where disposal is not otherwise accomplished by court order, as well as to address the needs of governmental agencies and other institutions and organizations for such items for scientific, educational, and public display purposes. In no case shall items be used for personal purposes, either by loan recipients or government personnel.

§ 219.23 Disposal of evidence.

Items that are evidence shall be disposed of only after authorization by the NOAA Office of General Counsel. Disposal approval usually will not be given until the case involving the evidence is closed, except that perishable items may be authorized for disposal sooner.

§ 219.24 Loans to institutions.

Items approved for disposal may be loaned to institutions or organizations requesting such items for scientific, educational, or public display purposes. Items will be loaned only after execution of a loan agreement which provides, among other things, that the loaned items will be used only for noncommercial scientific, educational, or public display purposes, and that they will remain the property of the United States government, which may demand their return at any time. Parties requesting the loan of an item must demonstrate the ability to provide adequate care and security for the item. Loans may be made to responsible agencies of foreign governments in accordance with the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

§ 219.25 Loans to individuals.

Items generally will not be loaned to individuals not affiliated with an institution or organization unless it is clear that the items will be used in a noncommercial manner, and for scientific, educational, or public display purposes which are in the public interest.

§ 219.26 Selection of loan recipients.

Recipients of items will be chosen so as to assure a wide distribution of the items throughout the scientific, educational, public display and museum communities. Other branches of NMFS, NOAA, the Department of Commerce, and other governmental agencies will have the right of first refusal of any item offered for disposal. The Administrator, or his or her designee, may solicit applications, by publication of a notice in the **Federal Register**, from qualified persons, institutions, and organizations who are interested in obtaining the property being offered. Such notice will contain a statement as to the availability of specific items for which transferees are being sought, and instructions on how and where to make application. Applications will be granted in the following order: other offices of NMFS, NOAA, and the Department of Commerce; U.S. Fish and Wildlife Service; other Federal agencies; other governmental agencies; scientific, educational, or other public or private institutions; and private individuals.

§ 219.27 Loan agreement.

Items will be transferred pursuant to a loan agreement executed by the Administrator, or his or her designee, and the borrower. Any attempt on the part of the borrower to retransfer an item, even to another institution for related purposes, will violate and invalidate the loan agreement, and entitle the United States to immediate repossession of the item, unless the prior approval of the Administrator, or his or her designee, has been obtained pursuant to section 219.28. Violation of the loan agreement may also subject the violator to the penalties provided by the laws governing possession and transfer of the item.

§ 219.28 Temporary reloans; documents to accompany items.

Temporary reloans by the borrower to another qualified borrower (as for temporary exhibition) may be made if the Administrator, or his or her disignee, is advised in advance by the borrowers. Temporary loans for more than thirty days must be approved in advance in writing by the Administrator or his or her designee. A copy of the original loan agreement, and a copy of the written approval for reloan, if any, must accompany the item whenever it is temporarily reloaned or is shipped or transported across state or international boundaries.

§ 219.29 Destruction of items.

This paragraph and other provisions relating to the destruction of property apply to items—

(a) which have not been handicrafted, or

(b) which have been handicrafted and are of less than one hundred dollars ($100) value, and

(c) for which no acceptable applications have been received, or for which publication in the **Federal Register** of the availability of similar items in the past has resulted in the receipt of no applications.

Such items may be destroyed if they have been in government ownership for more than one year. Perishable items which are not fit for human consumption may be destroyed sooner, if the authorization required by § 219.23 has been obtained. Destruction of items shall be witnessed by two persons, one of whom may be the disposing officer.

§ 219.30 Food items.

Food items shall, if possible, be disposed of by gift to nonprofit groups providing public welfare food services.

§ 219.31 Record-keeping.

A "fish and wildlife disposal" form shall be completed each time an item is disposed of pursuant to the policy and procedure established herein, and shall be retained in the case file for the item. These forms shall be available to the public.

[FR Doc. 81-18010 Filed 6-16-81; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 46, No. 116
Wednesday, June 17, 1981

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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Deregulation of Lending Policies, Amortization and Payment of Loans, and Lines of Credit

AGENCY: National Credit Union Administration.

ACTION: Proposed Rulemaking.

SUMMARY: In accordance with its established policy of reviewing its regulations at regular intervals, the National Credit Union Administration (NCUA) has reviewed its regulations covering lending policies, amortization of loans and lines of credit. As a result of this review, NCUA proposes to amend these regulations. The proposed amendments would reduce the regulatory burden on Federal credit unions and provide greater flexibility to the boards of directors of Federal credit unions in establishing lending policies.

DATE: Comments must be received on or before July 10, 1981.

ADDRESS: Send comments to 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: Barbara A. Burrows, Attorney-Advisor, Office of General Counsel at the above address. Telephone: (202) 357–1030.

SUPPLEMENTAL INFORMATION:

Lending Policies 701.21–1

Section by Section Analysis

Section 701.21–1(a). The proposed subparagraph (a) sets forth the general rule that the board of directors of a Federal credit union shall establish written lending policies consistent with cooperative principles. The rule clarifies that although the board is free to set its own policies, it must do so within the limitations of applicable law (such as the Federal Credit Union Act and the Consumer Credit Protection Act), within the limitations of applicable regulations (such as Regulation Z (Truth in Lending) and Regulation B (Non-Discrimination)) and within the limitations of applicable bylaws (such as Article XII (Loans and lines of credit to members)).

The proposed general rule continues the existing requirement that lending policies must be in writing. The NCUA Board continues to view this requirement as essential not only to assure the board of directors' compliance with its responsibilities under the Federal Credit Union Act but also to ensure that credit union members are afforded their rights under consumer protection laws.

Section 701.21–1(b). This subparagraph is currently designated as § 701.21–1(d). It is retained without change although it is redesignated as § 701.21–1(b).

Section 701.21–1(c). This subparagraph would assure that a borrower's loan file contains a loan application evidencing the financial data on which the decision to grant the loan was made. This subparagraph condenses some existing requirements of § 701.21–1 (e) and (f) but removes the specific eight recordkeeping requirements of the existing rule because they generally duplicate the requirements of Article IX sections 6 and 8 of the Federal Credit Union Bylaws. These bylaw sections promote sound credit granting decisions by requiring a Federal credit union to inquire into the applicant's financial condition and to determine the value of security.

The NCUA Board intends that the proposed rule require the credit union to retain on file only the essential information necessary for examination purposes. Unlike the existing rule, the proposed rule would allow a Federal credit union to use an abbreviated loan application for a share secured loan. The proposed rule would therefore eliminate the need for a credit union to collect and retain detailed information for a share secured loan, thereby reducing costs in employee time and recordkeeping.

Discussion of Changes and Deletions to the Existing Rule

Section 701.21–1(a). The existing rule contains definitions of "security," "unsecured loan limit," and "loan file." The NCUA Board believes that these definitions are simply restatements of the trade meaning of these terms and therefore need not be part of a regulation. Therefore, the NCUA Board proposes to delete them. Further discussion and guidance about the nature of security and secured loans may be found in the NCUA *Credit Manual* which contains an entire chapter on security.

Section 701.21–1(c). The existing rule requires a Federal credit union to notify its members when it increases its loan interest rates above the traditional 12%. The NCUA Board proposes to delete all of this subparagraph because it believes the requirement is now obsolete. The notice requirement was adopted in April 1980, shortly after Congress raised the interest rate ceiling for Federal credit unions from 12% to 15%. Since then, the ceiling has been temporarily raised again to 21% by the NCUA Board. However, for 45 years prior to April 1980, Federal credit unions could charge a maximum loan interest rate of no greater than 12% per year.

Because credit union members were very familiar with the longstanding 12% ceiling the NCUA Board believed that members should be notified when their credit union first decided to increase loan interest rates above 12%. The Board recognizes, however, that many Federal credit unions now charge more than 12% annual interest. Therefore, the Board believes that while the provisions of § 701.21–1(c) served a necessary purpose in early 1980, they are outdated and unnecessarily burdensome to Federal credit unions, especially newly chartered Federal credit unions. The Board therefore proposes to eliminate them.

Amortization and Payment of Loans to Members 701.21–2

General Purpose

Beause the existing requirements of § 701.21–2 may be unnecessarily limiting the ability of the board of directors in the management of its loan portfolio, the NCUA Board proposes to revise that section. The revision will give the board of directors significantly greater flexibility in establishing its amortization and loan repayment policies.

Discussion of the Requirements of the Existing Regulation

Section 701.21–2(a) sets forth the general mandate that a loan must be paid by substantially equal payments at intervals of not greater than 12 months, except for a line of credit which must be paid at intervals not greater than 1 month. Subparagraph (c) of the rule also requires that an interest payment accompany each principal payment, that interest be paid at least annually and that payments be sufficient to pay off the loan at maturity.

The remainder of the existing rule sets out the following four exceptions to these general rules:

(1) 701.21–2(b)(2)(i) allows the credit union to tailor the terms of payment of an education loan to fit the member's needs, if consistent with the best interest of the credit union.

(2) 701.21–2(b)(2)(ii) allows the credit union to underwrite a single payment loan with a maturity of not greater than 30 months. This is an exception to the rule that requires repayment of interest at least annually.

(3) 701.21–2(b)(2)(iii) provides an exception to the rule that requires at least monthly payments on a line of credit, but the exception is limited to those situations when the member's income is received other than monthly.

(4) 701.21–2(b)(2)(iv) provides a similar exception to the line of credit rule but it applies only where a central credit union extends a line of credit to a member credit union.

Discussion of Proposed 701.21–2

The NCUA Board offers two alternative proposals for comment. Both proposals would provide the board of directors a great deal of flexibility in establishing amortization and loan payment policies, but would require the board to establish these policies after considering the needs of the borrowers, the amounts and durations of the loans, the interests of the members and such other factors the board deems relevant. This added flexibility comports with the legislative intent that a credit union be allowed to use innovative repayment schedules. (H.R. Rep. No. 95–23, 95th Cong., 1st Sess. 10 (1977)).

This new broad authority would give a credit union freedom to use final large payments (formally called balloon payments under Regulation Z).[1] The NCUA Board recognizes, however, that an excessive number of balloon payment loans could threaten a credit union's solvency if a substantial number of borrowers default on them at the same time. Therefore the NCUA Board invites comments on "balloon payments," their advantages and disadvantages and the advisability of placing a percentage or dollar limitation on them.

This broad new authority would also allow a credit union to grant a variety of "variable rate" consumer loans. In recent months the NCUA Board has proposed and adopted several rules deregulating the liability side of the balance sheet, with the ultimate goal of eliminating share and share certificate divided rate ceilings. The Board believes that these actions will, among other things, remedy inequities suffered by savers. To best implement the changes on the liability side, a credit union must possess similar flexibility on the asset side. While share certificate dividend rates may fluctuate with the market, loan rates have not been permitted to vary. The NCUA Board has moved to deregulate mortgage lending and now is proposing similar action for consumer lending.

NCUA's existing regulation requires that a member loan "* * * shall be paid by substantially equal payments * * *," which precludes changes in the regular payment amount as a means of implementing adjustments in the loan rate. Therefore, although a credit union may grant a "variable rate" [2] loan under the existing regulation, its only means of adjusting the loan to the new rate is to extend the loan maturity. The maturity for consumer loans, including all extensions, is limited to 12 years by § 107 of the Federal Credit Union Act. Mobile home loans and home improvement loans may have a maturity of 15 years. Under the proposed rule, a credit union could grant market sensitive consumer loans without restrictions either on indexing or the method of adjusting the loan to market fluctuations. Loan rate increases could be directly translated into higher regular payments. Consequently, a credit union could avoid maturity extensions that increase the risk, and could derive higher income immediately from an increase in the net yield on a loan and a borrower would not be tied to a loan with an expanding maturity.

The NCUA Board invites comments on this proposed broad authority. The Board especially invites comments as to whether NCUA should more closely regulate the use of adjustable rate consumer loans by restricting the frequency and the amount of an adjustment and by restricting the use of indexes.

Comments on "accretion of principal" also are invited. Regarding this topic, the Board recognizes that when variable rate loans are adjusted through addition of unpaid interest to the principal balance, the result may be that a large final payment is required. Like balloon payments, these large final payments may threaten a credit union's solvency particularly if a substantial number of members default on them at the same time. Therefore, the Board requests comments on whether and how accretion of principal should be limited.

The NCUA Board strongly encourages each federal credit union that offers variable rate consumer loans to establish a member education program for prospective applicants for such loans to help them understand how loans of this type work under varying conditions, including "worst case" situations. The program would be in addition to any disclosure requirements.

The NCUA Board proposes to restrict some of the authority in the general rule described above, and offers the following two alternatives or a combination of the two for comment.

Alternative No. 1

Alternative No. 1 would retain the existing requirement of § 701.21–2(c)(1) that each principal payment be accompanied by a payment of interest accrued to date. The Board believes this requirement not only reminds the member of the continuing debt obligation, but also emphasizes to the credit union the importance of debt service and its relationship to the solvency and safety and soundness of the credit union.

This alternative would also allow greater flexibility to a credit union to grant single payment loans. The credit union could therefore better accommodate emergency or other meritorious situations that NCUA cannot foresee.

This alternative also includes a requirement that a credit union must disclose certain information regarding a variable rate consumer loan. The Board proposes two options regarding disclosure and requests comments on them. The first option parallels the existing requirements of Regulation Z and the Truth in Lending Act. The second option would require a Federal credit union to comply, at the time of application, with the disclosure

[1] Under the current Regulation Z, a balloon payment is any payment more than twice the amount of any regularly scheduled payment. The new simplified Reg. Z drops the term, but still requires disclosure of odd payments. Current: 12 CFR 226.8(b)(3); Simplified: 46 FR 20848 (1981) (to be codified in 12 CFR 226.18(g)).

[2] Variable rate consumer loans, of course, are subject to the disclosure requirements of Regulation Z. Current: 12 CFR § 226.8(b)(8); Simplified: 46 FR 20848 (1981) to be codified at 12 CFR 226.18(f).

requirements of the new Regulation Z. However, this option would require more specific disclosures of the variable rate consumer loan information. In connection with the variable rate aspect of a loan, Regulation Z requires disclosure of the circumstances under which the rate may increase, any limitations on the increase, the effect of an increase, and an example of the changed payment terms. Option No. 2 would require that a federal credit union additionally specify the index to be used, disclose how often an increase might take place, and explain how the increase will be calculated, all in commonly understood language. This disclosure would be provided at the time of application.

Option No. 2 would not cause a credit union to develop any disclosures in addition to the disclosure described above, since Regulation Z grants Federal regulatory agencies authority to specify variable rate disclosure requirements in lieu of those contained in the regulation. Furthermore, a federal credit union would have to revise its forms anyway in order to comply with the new Regulation Z, since the forms currently in use will not comply with the new Regulation.

A credit union would not have to redisclose at the time of consummation in irregular transactions unless the APR increased by more than ¼ of one percent of the APR. Only those terms that had changed would have to be redisclosed.

The Board solicits comments as to whether the current Regulation Z disclosure requirements should be the only ones required or whether the current Regulation Z variable rate disclosure requirements should be replaced by NCUA's more specific requirements.

Alternative No. 2

This alternative retains the same existing requirement that alternative No. 1 retains. Unlike Alternative No. 1, however, this alternative also continues the existing requirement of § 701.21–2(c)(2) that interest accrued to date must be paid at least annually, but would add an exception for crop loans, allowing appropriate interest payments for those loans at the discretion of the board of directors. The Board is aware that member/farmers in Hawaii, for example, may be subject to a growing cycle as long as 3 years for sugar cane crops and that it may therefore be difficult for them to make annual interest payments on their crop loans. The Board invites comments as to the advisability of this exception.

Alternative No. 2, unlike alternative No. 1, would continue to impose a maximum maturity on a single payment loan, but would extend it from the present 2½ years (30 months) to 3 years (36 months). This change is proposed to accommodate some agricultural loans that are routinely made on a 3-year seasonal basis. The Board invites comments as to whether this maturity restriction on a single payment loan is necessary for safety and soundness purposes. This alternative includes the disclosure options contained in Alternative No. 1.

Lines of Credit to Members § 701.21–3

Discussion of Existing Rule and Proposed Changes

Sections 701.21–3(a) (1) and (2) define the terms "line of credit" and "agreement." The NCUA Board believes these terms are defined appropriately in the existing regulation.

Contents of the Line of Credit Agreement

Section 701.21–3(b) of the existing regulation sets forth the minimum provisions required in a line of credit agreement. The NCUA Board proposes to delete this entire subparagraph because its requirements are either requirements of the Federal Credit Union Act (in which case the regulation is duplicative) or dictated by sound business practice (in which case the provisions normally would be included in any line of credit agreement anyway).

Termination of the Agreement

The NCUA Board believes that the existing requirements as to conditions under which a credit union may terminate the agreement reflect obvious sound business practice. While the NCUA Board proposes to delete these requirements, it does so with the expectation that the line of credit agreement will set forth the specific conditions under which the agreement may be terminated by the credit union. (The borrower, of course, may terminate the agreement for any reason at any time, but must repay the outstanding obligation existing at the time of termination.)

The Board continues to believe, however, that the interests of the members are served best by the existing requirement that the credit union notify the member in writing of any termination. Therefore the Board has retained this requirement in the proposed rule. The Board requests comments as to whether it should require that the notice be sent within a specific time period after termination.

36-Month Review, Reapplication, Disbursements Exceeding a Borrower's Credit Limit, Review of Liquidity Status

The Board proposes to delete from the existing rule §§ 701.21–3(d) (36-month review), 701.21–3(e) (Reapplication), 701.21–3(f) (Disbursements exceeding a borrower's credit limit), and 701.21–3(g) (Review of liquidity status). NCUA adopted these rules shortly after Federal credit unions first received authority to offer lines of credit. At that time NCUA felt that it was in a credit union's best interest to require it to closely monitor its lines of credit through the methods set out in the current rule. While the Board continues to view such monitoring with importance, it no longer believes it necessary to specify in a regulation how it must be done. Therefore, the Board proposes to delete these sections from the rule. However, the NCUA Board strongly encourages federal credit unions to continue such monitoring, and especially encourages a review of a member's creditworthiness every 36 months.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board hereby certifies that the proposed rules, if adopted, will not have a significant economic impact on a substantial number of small credit unions because the rules would increase their management flexibility, increase their competitive positions and reduce their paperwork burdens.

Financial Regulation Simplification Act

Since the proposed rules would reduce burdens and delay would cause unnecessary harm, the NCUA Board finds that full and separate consideration of all the requirements of the Financial Regulations Simplification Act is impracticable. The NCUA Board has considered most of these policies, as set forth in the preamble above.

Comment Period

The NCUA Board is providing for a comment period of less than 60 days on the changes to the existing rules since the changes would relieve a regulatory burden. In addition, delay is not in the public interest since it would further delay the ability of Federal credit unions to adopt flexible loan policies and to grant variable rate consumer loans to their members, thus perpetuating the imbalance in flexibility and planning

between the asset and liability sides of a Federal credit union's balance sheet.

Beatrix Fields,

Acting Secretary of the NCUA Board.

June 12, 1981.

(12 U.S.C. 1757, 1761(b)(c) and 1766(a))

Remarks.—Accordingly, it is proposed that 12 CFR 701.21–1, 701.21–2, 701.21–3 be revised as set forth below.

§ 701.21–1 Lending policies.

(a) General Rule: Within the limitations prescribed by applicable law, regulations and bylaws, the board of directors shall establish written lending policies consistent with cooperative principles.

(b) Interest rates charged on loans (including line of credit balances) may vary according to written classifications established by the board of directors consistent with cooperative principles and existing laws and regulations.

(c) Subject to limitations established by the board of directors, the credit committee or loan officer shall assure that a credit application for each borrower is on file which

(1) Reflects the borrower's financial condition and the financial condition of the borrower's sureties, if any;

(2) Evidences the ability to repay of the borrower and the borrower's sureties;

(3) Supports the approving officer's decision to extend credit.

§ 701.21–2 Amortization and payment of loans to members (alternative No. 1).

(a) General rule: Subject to the following restriction, loans shall be paid or amortized in accordance with policies prescribed by the board of directors after taking into account the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and such other factors as the board deems relevant.

(b) Each loan shall provide for payment of interest accrued to date with each payment of principal.

(c) Disclosure of variable rate consumer loan information.

Option #1. An applicant must be given a disclosure notice in accordance with the Truth in Lending Act and in accordance with Regulaton Z. Federal credit unions are permitted to disclose additional material to the borrower as determined appropriate by the board of directors of the Federal credit union.

Option #2. Each Federal credit union that offers variable rate consumer loans must have available and give each prospective applicant at the time of application a disclosure notice in accordance with the Truth in Lending Act and Regulation Z and a written statement in commonly understood language summarizing how a variable rate consumer loan will work (what the index will be, how often increases will occur, how the increase will be calculated, what the effect of the increase will be on the monthly payment, etc.). The statement will be adequate to enable the member to easily compare the terms of the variable rate consumer loan from the credit union with those offered by other institutions.

§ 701.21–2 Amortization and payment of loans to members (alternative #2).

(a) General rule: Subject to the following restrictions, loans shall be paid or amortized in accordance with written policies prescribed by the board of directors after taking into account the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and such other factors as the board deems relevant.

(b) Single payment loans must have a maturity of 36 months or less.

(c) Each loan shall provide for:

(1) Payment of interest accrued to date with each payment of principal;

(2) Payment of interest accrued to date not less frequently than annually; except that crop loans may be repaid with interest payments required at such intervals as the board of directors deems appropriate.

(d) Disclosure of variable rate consumer loan information.

Option #1. An applicant must be given a disclosure notice in accordance with the Truth in Lending Act and in accordance with Regulation Z. Federal credit unions are permitted to disclose additional material to the borrower as determined appropriate by the Board of directors of the Federal credit union.

Option #2. Each Federal credit union that offers variable rate consumer loans must have available and give each prospective applicant at the time of application a disclosure notice in accordance with the Truth in Lending Act and Regulation Z and a written statement in commonly understood language summarizing how a variable rate consumer loan will work (what the index will be, how often increases will occur, how the increase will be calculated, what the effect of the increase will be on the monthly payment, etc.). The statement will be adequate to enable the member to easily compare the terms of the variable rate consumer loan from the credit union with those offered by other institutions.

§ 701.21–3 Lines of credit to members

(a) For the purposes of this section:

(1) "Line of credit" means a fixed amount which may be drawn upon by a member from time to time and which may be replenished by payments on amounts previously drawn.

(2) "Agreement" means the written document signed by the borrower to establish the terms and conditions of a line of credit.

(b) Each line of credit must be evidenced by an agreement.

(c) Termination of a line of credit agreement by the credit union shall be given by written notice and shall not affect the borrower's obligation to pay the balance outstanding incurred prior to the notice.

[FR Doc. 81–18027 Filed 6–16–81; 8:45 am]

BILLING CODE 7535–01–M

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12 CFR Part 701

Fixed Rate Mortgage Loans and Adjustable Rate Mortgage Loans

AGENCY: National Credit Union Administration.

ACTION: Proposed rules.

SUMMARY: In accordance with its ongoing program of updating, clarifying and simplifying existing regulations, the National Credit Union Administration (NCUA) has conducted a further review of its regulation governing fixed rate mortgage loans. As a result of this review, NCUA is requesting comments on whether or not to increase the limit on the aggregate dollar amount of long term real estate loans that a Federal credit union may have outstanding. At present a Federal credit union may have up to 25 percent of its assets in long term real estate loans. As a result of this review, NCUA is also proposing to amend the regulation to clarify that, notwithstanding state law, a Federal credit union is required to have a due on sale clause in its loan instruments. And further, notwithstanding state law, a credit union may exercise that clause unless the person to whom the property is sold or transferred and the Federal credit union reach written agreement that the credit of such person is satisfactory and that the interest payable to the credit union shall be at such rate as the credit union shall request. In addition, NCUA is proposing a regulation which would permit Federal credit unions to make adjustable rate mortagage loans (ARMs). This action will better enable Federal credit unions to provide mortgage loans to their members and will better enable Federal credit unions to match the earnings of their assets (loans) with the cost of their market sensitive liabilities and equity accounts (member share and share certificate accounts).

DATE: Comments must be received on or before July 10, 1981.

ADDRESS: Send comments to: Robert S. Monheit, Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration,

1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: John L. Culhane, Jr., Senior attorney, Office of General Counsel, (Principal Draftsman, proposed amendments to 701.21–6) or Thomas C. Buckman, Regulatory Review Officer, Office of Examination and Insurance (Principal Draftsman, proposed 701.21–6B), both at the address above. Telephone numbers: (202) 357–1030 (Mr. Culhane), (202) 357–1065 (Mr. Buckman).

SUPPLEMENTARY INFORMATION:

Proposal Changes—Fixed Rate Mortgage Loans

1. Background. Prior to the April 19, 1977 amendments to the Federal Credit Union Act, Federal credit unions were only authorized to grant loans with maturities of 10 years or less. This made it difficult for Federal credit unions to grant conventional mortgage loans. Public Law 95–22 amended the Act to pemit Federal credit unions to grant residential real estate loans with maturities of 30 years or less. This power was to be implemented by regulations adopted by NCUA. Section 701.21–6 implementing this power was added to NCUA's Rules and Regulations and became effective on May 8, 1978. (43 FR 14924 (1978)).

Since that time the regulation has been reviewed regularly and significant deregulation has already taken place. For example, following amendments to the Federal Credit Union Act, the regulation was amended to reflect the fact that the maximum rate of interest was changed from 12 percent per annum inclusive of all service charges to 15 percent per annum inclusive of all finance charges. In defining the term "finance charges" NCUA stated that, in order to eliminate inconsistencies insofar as possible, it would generally look to the definition of the term "Finance Charge" under the Truth in Lending Act and Regulation Z.

Consequently, charges excluded from the Finance Charge determination under the Truth in Lending Act and Regulation Z would not be considered finance charges for purposes of the Federal Credit Union Act. Hence certain charges incurred in connection with loans secured by real property would not be considered to be finance charges for purposes of the Federal Credit Union Act (i.e. fees for title examinations or title insurance, fees for document preparation, escrows for payments of taxes and insurance, notary fees, appraisal fees, and credit report fees). (45 FR 22888, 22890 (1980))

Further deregulation occurred in connection with the NCUA Board's decision to raise the permissible interest rate ceiling from 15 percent to 21 percent. At that time, the regulation was amended to clarify that the recomputation and refund requirement would no longer apply to government insured or guaranteed loans. (If points or other front end charges are assessed in connection with a long term real estate loan and the loan is paid prior to maturity, a refund or adjustment of the final payment is necessary to assure that the maximum permissible rate of interest has not been exceeded.) A recomputation and refund is now necessary on government insured or guaranteed loans only when expressly required by the laws and regulations governing the insured or guaranteed loan program. (45 FR 81032, 81035 (1980))

Additional deregulation occurred recently when the restrictions on loan origination fees were removed and when Federal credit unions with less than $2 million in assets were granted the authority to engage in real estate lending without prior approval by NCUA. (46 FR 17538 (1981)) Further deregulation in the real estate lending area will occur once NCUA completes its ongoing rulemaking proceeding on the use of adjustable rate mortgages by Federal credit unions.

Since the substantive provisions of § 701.21–6 were also reviewed in connection with the NCUA Board's decision to approve a final regulation permitting Federal credit unions to enter into business relationships with other mortgage lenders (46 FR 19927 (1981)), NCUA's review of its real estate lending regulation has therefore been a limited one. Consequently, only two changes in the existing regulation are being considered.

2. Percentage of Assets Limitation. In granting Federal credit unions the power to make long term real estate loans Congress directed NCUA to ensure that Federal credit unions provide this service without adversely affecting their primary function of providing low cost consumer loans to their members. NCUA was given the discretion to impose maximums on the percentage of a credit union's portfolio that could be allocated for long term real estate loans and was also given the discretion to determine whether this percentage should vary according to the asset size of the credit union. *See* H.R. Rep. No. 23, 95th Cong., 1st Sess. 9 (1977). In promulgating final regulations, NCUA determined to limit the aggregate dollar amount of real estate loans outstanding to 25 percent of the credit union's assets and that percentage has remained unchanged to date. (43 FR 14925 (1978)) The NCUA Board is now requesting comments as to whether this limit should be increased in order to provide greater flexibility to Federal credit unions.

The Board observes that once a final adjustable rate mortgage regulation is adopted, a change may be advisable to provide Federal credit unions more latitude to compete with other financial institutions in offering such mortgages. Loans that are sold are not included in the percentage limitation (and only the interest that is retained is included when part of a loan is sold). However, until such time as an extensive secondary market develops for adjustable rate mortgage loans, Federal credit unions offering those loans may of necessity have to retain a significant number of them in their loan portfolios. Consequently, a change may be advisable to enable Federal credit unions offering adjustable rate loans to better compete with other lenders by allowing Federal credit unions to remain in the mortgage market longer than would otherwise be the case.

3. Due on Sale Clause. A due on sale clause is a type of acceleration clause that gives the lender or the holder of the loan the option of calling the loan if the borrower sells or transfers all or part of his or her interest in the real property securing the loan. A number of states, either by statute, regulation, or judicial decision either limit or prohibit the enforceability of a due on sale clause in a residential real estate loan unless the lender can show an impairment to its security or risk of default as the result of the sale or transfer. *E.g., Wellenkamp v. Bank of America,* 21 Cal. 3d 943, 148 Cal. Rptr. 379, 578 P.2d 970 (1978). As a result, several Federal credit unions and some credit union leagues have asked whether a Federal credit union, like a Federal savings and loan association, may exercise its rights under a due on sale clause and raise the interest rate on a loan notwithstanding state law. *See, e.g., Glendale Savings and Loan Association v. Fox,* 459 F. Supp. 903 (C.D. Cal. 1978), *appeal pending.*

In promulgating its regulations pursuant to the plenary and exclusive powers granted it to regulate the real estate loans granted by a Federal credit union, the amortization of those loans, and the sale of those loans NCUA elected to require that a Federal credit union use the FNMA/FHLMC Uniform Instruments in lieu of permitting a credit union to draft its own notes and its own deeds of trusts or mortgage instruments.

(43 FR 14924 (1978) (final regulations); 42 FR 59980 (1977) (proposed regulation)).

In making this decision, NCUA was well aware that at that time paragraph 17 of the FNMA/FHLMC deed of trust (or mortgate) contained a due on sale clause. Paragraph 17, which has essentially remained unchanged to date, provides as follows:

> Transfer of the Property; Assumption. If all or any part of the Property or an interest therein is sold or transferred by Borrower without Lender's prior written consent, excluding (a) the creation of a lien or encumbrance subordinate to this Deed of Trust, (b) the creation of a purchase money security interest for household appliances, (c) a transfer by devise, descent or by operation of law upon the death of a joint tenant or [d] the grant or any leasehold interest of three years or less not containing an option to purchase, Lender may, at Lender's option, declare all the sums secured by this Deed of Trust to be immediately due and payable. Lender shall have waived such option to accelerate if, prior to the sale or transfer, Lender and the person to whom the Property is to be sold or transferred reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Deed of Trust shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in this paragraph 17 and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender shall release Borrower from all obligations under this Deed of Trust and the Note. If Lender exercises such option to accelerate, Lender shall mail Borrower notice of acceleration in accordance with paragraph 14 hereof. Such notice shall provide a period of not less than 30 days from the date the notice is mailed within which Borrower may pay the sums declared due. If Borrower fails to pay such sums prior to the expiration of such period, Lender may, without further notice or demand on Borrower, invoke any remedies permitted by paragraph 18 hereof.

Similarly, NCUA was well aware that at that time paragraph 13 of the FNMA/FHLMC deed of trust (or mortgage) provided that the lender's right to exercise the due on sale clause would inure to a subsequent holder of the loan. In pertinent part paragraph 13, which has essentially remained unchanged to date, provides as follows: "The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 17 hereof."

In deciding to require that a Federal credit union have a due on sale clause in its instruments, NCUA was mindful of the fact that this would evenly balance the effect of changing market rates. By statute, a member of a Federal credit union may prepay his or her loan in whole or in part on any business day without penalty. (12 U.S.C. 1757(5)(A)(viii)) As a result, the member may take advantage of decreasing rates by paying off the loan at the credit union without incurring a prepayment fee and by refinancing the outstanding balance at a lower rate. The credit union therefore bears the risk that rates will drop. Absent a due on sale clause, the member would also be able to take advantage of increasing rates by selling the property at a premium to a purchaser who would then assume a loan at a rate below market rates. As a result, the credit union would also bear the risk that rates would increase.

Moreover, NCUA chose to require that an instrument containing these clauses be used by a Federal credit union because of its belief that the ability of the holder of a loan made by a Federal credit union to exercise the rights afforded by a due on sale clause is essential to a Federal credit union's safe and sound participation in the residental mortgage market. If a Federal credit union were to be unable to exercise a due on sale clause and update its current mortgage portfolio yields to match and exceed its current cost of funds, the credit union would either be forced to abstain from making new mortgage loans altogether or would be forced to make new loans at higher rates. A significant imbalance between loan yield and cost of funds would also have a adverse effect on the liquidity and solvency of the credit union. If the holder of a loan made by a Federal credit union were to be unable to exercise a due on sale clause, the value of a credit union mortgage to the secondary market would diminish substantially because the yield on the mortgage would reduce substantially. Thus, a Federal credit union would be hampered in its ability to access the secondary mortgage market, despite clear Congressional intent to enable a credit union engaged in real estate lending to take advantage of secondary mortgage market facilities. *See* H.R. Rept. No. 23, 95th Cong., 1st Sess. 12 (1977).

The NCUA Board concurs with the conclusions of the Nebraska Supreme Court in *Occidental Savings & Loan Association* v. *Venco Partnership*. In that case the Court held as follows:

> Not only are we convinced that a "due-on-sale" clause is not repugnant to public policy but, to the contrary, we recognize that, under certain economic circumstances, they may favor the public interest and, therefore, be supportive of public policy. On the one hand, the assets * * * are * * * long-term mortgages, while, on the other hand, the funds necessary to make such loans are obtained from short-term and demand savings accounts and certificates. As the cost of obtaining deposits rises, the spread widens between what [a financial institution] must pay for funds by way of interest and what [it] receives from borrowers. Once the spread gets too great, the [financial institution] will be unable to meet the standards set by government regulations and will fail. The potential failure of [financial institutions] and the loss of their depositors' finds should be of no less a concern * * * than the inability of a property owner to transfer its mortgage at a premium when selling its property. Balancing portfolio return with cost of money is an important factor in the survival of [financial institutions]. The "due-on-sale" clause is an important device in maintaining that balance.

Occidental Savings & Loan Association v. Venco Partnership, 206 Neb. 469, 293 N.W.2d 843 (1980).

In order to clarify this position, the NCUA Board is proposing to add a new § 701.21–6(d) to its Rules and Regulations. This Section will state that a Federal credit union is required to place a due on sale clause in its mortgage instruments and that the holder of a loan made by a Federal credit union may exercise its rights under such a clause, notwithstanding state laws to the contrary. The restrictions placed on the exercise of the clause will simply mirror those that appear in paragraph 17. Since no change in position is made, § 701.21–6(d) will apply to all long-term real estate loans that have been or that will be granted by Federal credit unions.

The NCUA Board is satisfied that, in restating its position, it is exercising the specific and general rulemaking authority granted by Congress to preempt state laws regarding the real estate loans made by Federal credit unions, the amortization of those loans, and the sale of those loans. Moreover, the Board notes that the courts have consistently held that the interest rates charged on loans made by Federal credit unions are governed by Federal rather than state law. *See, e.g., Christian v. Atlanta Army Depot Federal Credit Union*, 140 Ga. App. 277, 231 S.E.2d 7 (1976); *Brooklyn Jenapo Federal Credit Union v. Schucher*, 258 N.Y.S.2d 348 (S.Ct. 1963); *McAnally v. Ideal Federal Credit Union*, 428 P.2d 322 (Okla. 1967); *Birdwhistell v. Y–12 Employees Federal Credit Union*, 57 Tenn. App. 621, 422 S.W.2d 896 (1968).

Proposed Rule—Adjustable Rate Mortgage Loans

1. Background. On December 1, 1980, the NCUA Board issued an Advance Notice of Proposed Rulemaking requesting comments on the use of adjustable rate mortgages by a Federal

credit union. (45 FR 79494 (1980).) The Advance Notice has provided the NCUA Board with the benefit of public comments concerning the scope and direction of any proposed rule. Additionally, NCUA staff has carefully studied the adjustable mortgage loan regulations issued by the Federal Home Loan Bank Board and the Office of the Comptroller of the Currency.

NCUA received 34 comments on the Advance Notice of Proposed Rulemaking. With one exception, all of the commenters favored NCUA allowing a Federal credit union to grant mortgage loans which are secured by adjustable rate mortgages.

In general the commenters urged NCUA to issue a regulation with considerable flexibility to allow a Federal credit union to compete in the marketplace. They believe that market competition rather than government regulations should be the final arbiter of how adjustable rate mortgage loans are structured. Several commenters also cautioned NCUA not to issue an overly restrictive regulation. At this early stage in the development of ARMs such a regulation could result in a Federal credit union not being able to participate in the secondary market. Additionally, the commenters pointed out that if the regulation is overly restrictive, and NCUA has to make frequent changes to the regulation in response to the marketplace, the result will be that a Federal credit union will need to incur additional costs to modify its programs each time the regulation is changed.

The one opposing view was received from a consumer association which expressed the belief that allowing lending institutions to adjust interest rates will result in higher mortgage rates and as a result will harm consumers. However, NCUA notes that ARMs may result in additional mortgage funds being available to consumers and also notes that under NCUA's proposed rule consumers will automatically receive the benefits of lower interest rates when mortgage rates decline.

Moreover, NCUA believes this view does not recognize that, as a matter of safety and soundness, the recent deregulation actions of the NCUA Board on the liability side of the balance sheet necessitate similar deregulation on the asset side of the balance sheet. For example, a Federal credit union is currently permitted to issue market sensitive share certificate accounts which benefit consumers. The proposed regulation will permit a Federal credit union to grant market sensitive mortgage loans. The NCUA Board believes that it is essential that the deregulation of the asset side of the balance sheet of a Federal credit union be accomplished in tandem with the deregulation of the liability side of the balance sheet.

NCUA does expect to monitor the effects of any final rule on consumers and on the safety and soundness of a Federal credit union through its regular supervision and examination program. If abuses should be noted the NCUA Board would consider further regulation in this area.

The Advance Notice posed six questions. A restatement of the questions asked and an analysis of the comments received from the public follows.

2. Question: *Should Federal credit unions be required to offer the borrower a choice between a fixed rate mortgage and an adjustable rate mortgage?*

Overwhelmingly, the commenters recommended that Federal credit unions not be required to offer fixed rate mortgages. They suggested that a Federal credit union should have the flexibility to make this decision based upon market conditions and based on its financial condition. Some commenters stated that requiring a credit union to administer two mortgage loan programs could add to the cost of credit union operations. While the NCUA Board encourages Federal credit unions to consider offering both fixed rate mortgages and adjustable rate mortgages, the proposed regulation would allow the board of directors of each individual credit union to make this determination for themselves.

3. Question: *Should NCUA specify the index (or indexes) to be used in ARM's or should Federal credit unions be allowed to choose an index? If NCUA should specify an index (or indexes), which index (or indexes) would best meet the needs of Federal credit unions and their members?*

Two-thirds of the commenters who commented upon this question recommended that NCUA not specify any index. They believe that in the development stage of ARMs Federal credit unions need the flexibility to use the indexes that secondary market investors will accept. They believe that if NCUA specifies an index (or indexes) that must be used, the marketability of ARMs originated by Federal credit unions will be lessened.

Accordingly, the proposed regulation does not specify any index. As proposed, a Federal credit union would have the flexibility of using any index as long as the index is beyond the control of the credit union and as long as the index is readily verifiable by the borrower. (An individual Federal credit union's cost of funds would not be an acceptable index. Also, the contract between the Federal credit union and the borrower should specify a single index.)

In accordance with sound asset-liability management, the NCUA Board would recommend that a Federal credit union choose an index which moves in direct correlation with its cost of funds and which is a market rate rather than an administered rate. Thus, NCUA would not recommend the use of the Federal National Mortgage Association (FNMA) auction yield as an index since the auction yield reflects the particular needs of FNMA as well as the market place. Nor would NCUA recommend the use of the Central Liquidity Fund lending rate since it is tied to corporate central lending rates which may be affected by special industry circumstances.

4. Question: *How should NCUA regulate adjustments?*

a. *How often should interest rates be allowed to change?*

b. *How much should the rate be able to change during any one adjustment?*

c. *How much should the rate be able to go up over the life of the mortgages?*

A majority of the commenters who commented upon this question recommended that NCUA not regulate rate adjustments for the same reasons previously mentioned, i.e., Federal credit unions need the flexibility in the development stages of ARMs to adjust to market place competition. The proposed rule would allow each individual credit union to determine how rate adjustments will be carried out. The rate adjustment terms negotiated between the borrower and the Federal credit union would essentially be a direct product of market place competition.

5. Question: *How should ARMs be amortized?*

a. *Should Federal credit unions be required to renew loans secured by renegotiable rate mortgages?*

b. *Should the borrower be given the option of extending the maturity of the loan (amortization schedule) if possible?*

c. *Should NCUA permit principal accretion schedules?*

A wide variety of comments were received on this question. The majority of the commenters favored allowing the individual credit union to make its own decisions in establishing amortization schedules.

On the question of renewing loans, one of the commenters asked for clarification as to the type of renegotiable rate mortgage NCUA was considering. This commenter pointed out that a renegotiable rate mortage may be

either a long-term loan secured by a mortgage of equal length on which the interest rate may be adjusted every three, four or five years, or a short-term loan secured by a long-term mortgage which is automatically renewed at intervals of three, four or five years at a potentially different interest rate. During the request for comments, NCUA was considering the merits of both types of renegotiable rate mortgages.

The proposed rule would only permit the use of a long-term loan secured by a mortgage of equal length on which the interest rate may be adjusted. The proposed rule would not permit the use of a short-term loan (with a balloon payment) secured by a long-term mortgage due to anticipated problems such as lien priority, added costs, and the hardship on a member forced to refinance a mortgage when funds may be extremely expensive.

The comments on whether or not the borrower should be given the option to extend the loan were mixed. Commenters pointed out that the maximum maturity limit in the Federal Credit Union Act might prohibit a Federal credit union from extending the maturity beyond 30 years. They also pointed out that even if longer amortization schedules are permissible, the borrower receives very little relief in reduced monthly payment once a loan is extended beyond 30 years. Additionally, it was pointed out that extended maturities would greatly increase the borrower's interest cost. Consequently, the proposed rule only permits amortization schedules under 40 years.

The initial maturity of a loan may not exceed 30 years. However, the loan may be renewed or extended provided the overall amortization schedule from the date of loan origination does not exceed 40 years. (In the case of a loan insured or guaranteed by the Federal government, state government or agency of either, the maturity may be as provided by the insuring or guaranteeing agency.)

The majority of the comments received on the question of principal accretion favored allowing a Federal credit union to use a principal accretion schedule as long as the lender has the right to reappraise the property securing the loan. (The term principal accretion is used to describe the increase in the loan balance that occurs when the monthly payment is too small to cover the accrued interest for the month and the unpaid interest is added to the loan balance.)

The proposed rule would permit the board of directors of each individual Federal credit union to determine the amortization schedule as long as the amortization schedule is sufficient to fully amortize the principal balance over the maturity of the loan. Principal accretion would be permitted as long as at least every five years the amount of the monthly payment is adjusted to a level sufficient to amortize the loan balance at the then existing interest rate over the remaining term of the loan.

The proposed regulation assumes continued compliance with the loan-to-value provisions of Section 701.21–6(b)(5) of the NCUA Rules and Regulations as long as the original loan-to-value ratio was in compliance with the regulation. However, the NCUA Board notes that private mortgage insurance companies, secondary market investors, and Federal credit unions would be able to develop their own loan-to-value requirements within the parameters of the proposed rule.

6. Question: *What information should be disclosed to the borrower?*

A wide variety of comments were received on this question. Some commenters noted that a Federal credit union will be required to make disclosures about the variable rate feature of an ARM in accordance with the Truth in Lending Act and Regulation Z. Hence they argued that any additional disclosures would be unnecessary and, if complex, would only serve to confuse the borrower. Other commenters favored NCUA drafting a plain English model disclosure form, but they felt that the use of the form should be optional. NCUA agrees that in order for any disclosures to be meaningful, they must be easily understood by the borrower.

Consequently, NCUA is proposing two alternatives for comment. Under the first alternative disclosures would be made in accordance with the Truth in Lending Act and Regulation Z. (Under Regulation Z, in connection with the variable rate feature of a loan a lender must disclose the circumstances under which the rate may increase, any limitations on the increase, the effect of any increase, and an example of the payment terms that would result from an increase). Any additional disclosures would be optional.

Under the second alternative, a Federal credit union would be required to make the disclosures mandated by the Truth in Lending Act and Regulation Z at the time of or within three days of application and in addition would be required to disclose the index to be used, how often an increase might take place, and how the increase will be calculated. All of these disclosures would have to be made in commonly understood language. These disclosures would have to be made at or within three days of the time of application for shopping purposes.

NCUA notes that this alternative should not place any additional burdens on a Federal credit union making adjustable rate mortgage loans. The credit union would not have to redisclose terms under Regulation Z if, at the time of consummation, the APR has not increased by more than ¼ of one percent. If the APR did increase by more than ¼ of one percent, only those terms that had changed would have to be redisclosed.

Moreover, a credit union would not have to develop additional disclosure forms, since the credit union must revise its current forms by April 1, 1982 in order to be in compliance with the new Regulation Z anyway. Hence the credit union should not have to develop any additional forms because of this regulation. It would not have to develop a special variable rate disclosure for Regulation Z, since Regulation Z permits the Federal regulatory agencies to require disclosures in lieu of the variable rate disclosures required by Regulation Z. In addition, should this second alternative be adopted and should there be sufficient demand, NCUA would prepare an optional model disclosure form that could be used to satisfy these requirements.

Finally, the NCUA Board notes that regardless of which disclosure is selected in a final regulation, a Federal credit union that chooses to offer adjustable rate mortgage loans is encouraged to establish a member education program for prospective applicants for such loans to help them understand how mortgages of this type work under varying conditions, including "worst case" situations. This program would be in addition to the disclosures that the credit union provides.

7. Question: *If a Federal credit union is not required to use FMNA/FHLMC uniform Instruments in granting ARMs, should it be required to have a commitment from an investor to purchase ARMs? Should a commitment be required only after ARMs equal a certain percentage of the Federal credit union assets?*

The comments were about evenly divided on the question of whether or not a Federal credit union should be required to use FNMA/FHLMC Uniform Instruments in originating ARMs. Some commenters did express the belief that a Federal credit union should have the option of originating ARMs for its portfolio on documents which meet local jurisdictional requirements.

As of this writing a FNMA/FHLMC Uniform Instrument for ARMs has not been developed. Accordingly, the proposed rule does not require Federal credit unions to use mortgage instruments which comply with the requirements of secondary market investors. However, NCUA strongly recommends that, once a final regulation is adopted, a Federal credit union originate ARMs which are saleable in the secondary market in order to avoid an unforeseen liquidity crisis due to the inability to sell ARMs.

Overwhelmingly, the commenters express the belief that a Federal credit union should not be required to obtain a commitment from an investor. They believe that the existing limitation in the NCUA Rules and Regulations is sufficient. Section 701.21–6(b)(4) currently limits the aggregate dollar amount of real estate loans outstanding to 25 percent of a Federal credit union's assets. Consequently, the proposed rule does not contain a commitment requirement.

As discussed above, the NCUA Board is requesting comments on whether or not a change in the percentage of assets limitation is warranted. Nonetheless, the NCUA Board cautions that a Federal credit union may encounter liquidity problems if it originates ARMs which are not saleable in the secondary market.

Procedures for Regulatory Development

The NCUA Board is providing for a comment period of less than 60 days on these proposed rules because the proposed rules relieve regulatory burdens and because delay may not be in the public interest in that it could hamper the ability of Federal credit unions to manage their loan portfolios in a safe and sound manner. In addition, a longer comment period could delay the ability of Federal credit unions to offer fixed rate and adjustable rate mortgage loans to their members on a more equal competitive footing with other federally chartered financial institutions.

The NCUA Board certifies that the proposed changes, if adopted, will not have a significant economic impact on a substantial number of small Federal credit unions (Federal credit unions with less than $1,000,000 in assets). The NCUA Board believes that only a few credit unions under $1,000,000 in assets are making long-term real estate loans. Therefore a substantial number of small Federal credit unions would not be affected and a regulatory flexibility analysis is not required. (5 U.S.C. 605(b))

Furthermore, since the proposed rules would reduce burdens where delay would cause unnecessary harm, the NCUA Board finds that full consideration of all the policies of the Regulatory Simplification Act is impracticable. However, the NCUA Board has considered most of these policies as set forth in the preamble above.

Accordingly, NCUA proposes to amend its existing rules and regulations as set forth below.

Dated: June 12, 1981.

Beatrix D. Fields,

Acting Secretary, NCUA Board.

(12 U.S.C. 1757, 1766(a), 1789(a)(11))

1. Section 701.21–6 is amended by adding paragraph (d) to read as follows:

§ 701.21–6 Real estate lending.

* * * * *

(d) *Due on sale clause.* (1) Notwithstanding any state law to the contrary, a Federal credit union is required to include a due on sale clause in its loan instruments whereby the holder of a loan made by a Federal credit union may, at its option, declare immediately due and payable all of the sums secured by the security instrument if all or any part of the real property securing the loan is sold or transferred by the borrower without the holder's prior written consent.

(2) Notwithstanding any state law to the contrary, the holder of a loan made by a Federal credit union may exercise a due on sale clause unless:

(i) Exercise of the due on sale clause would be based on any of the following:

(A) Creation of a lien or other encumbrance subordinate to the security instrument;

(B) Creation of a purchase money security interest for household appliances;

(C) Transfer by devise, descent, or by operation of law upon the death of a joint tenant; or

(D) Grant of any leasehold interest of three years or less not containing an option to purchase; or unless

(ii) Prior to the transfer the holder and the person to whom the property is to be sold or transferred reach written agreement that the credit of such person is satisfactory to the holder and that the interest payable to the holder on sums secured by its security instrument shall be at such rate as the holder shall request.

(3) This section is being promulgated pursuant to the plenary and exclusive authority of the NCUA Board as set forth in Sections 107(5)(A)(i), 107(5)(A)(ix), and 107(13) of the Federal Credit Union Act to regulate, respectively, the real estate loans granted by Federal credit unions, the amortization of loans granted by Federal credit unions, and the sale of loans granted by Federal credit unions. This exercise of the Board's authority preempts State laws purporting to address the ability of the holder of a loan made by a Federal credit union to exercise its rights under a due on sale clause to raise interest rates on loans.

2. Section 701.21–6B is added to 12 CFR Part 701 to read as follows:

§ 701.21–6B Adjustable rate mortgage loans.

(a) *Definitions.* (1) An adjustable rate mortgage loan is a mortgage loan which permits the periodic adjustment of the rate of interest on the loan in response to the movement of an index which was agreed upon in advance by the borrower and the Federal credit union.

(2) Principal accretion is an increase in the unpaid loan balance. Principal accretion will occur if the monthly payment is insufficient to cover the interest due on a loan. The interest due that is in excess of the monthly payment will be added to the loan balance.

(b) *Authorization.* (1) Federal credit unions are permitted to make adjustable rate mortgage loans to members which are secured by first liens on residential real property and which have maturities in excess of 12 years and not exceeding 30 years. Loans whch are made under the provisions of this rule shall also comply with all the provisions of § 701.21–6 of the NCUA Rules and Regulations except for the following:

(i) The provisions of § 701.21–6(b)(2) (which require substantially equal monthly payments); and

(ii) The provisions of § 701.21–6(b)(7) (which require the use of the FNMA/FHLMC Uniform Instruments).

(2) This rule is promulgated pursuant to the exclusive authority of the NCUA Board to regulate real estate lending and loan amortization as set forth in Sections 107(5)(A)(i) and 107(5)(A)(ix) of the Federal Credit Union Act. This exercise of the NCUA Board's authority preempts any state law purporting to address the subject of a Federal credit union's ability or right to make adjustable rate mortgage loans.

(c) *Amortization.* (1) Adjustable rate mortgage loans shall have amortization schedules sufficient to fully amortize the principal balance over the maturity of the loan. If the principal balance of the loan is adjusted in response to a movement in the index the amount of the monthly payment shall be adjusted at least every five years to a level sufficient to amortize the loan balance at the then existing interest rate over the remaining term of the loan. Amortization

schedules with large final payments are not permitted.

(d) *Adjustment options.* (1) Adjustments to the interest rate may be implemented through changes in the monthly payment amount, through adjustment to the outstanding principal loan balance (principal accretion), or through extension of the loan maturity, provided that the maturity may not exceed 40 years.

(2) Adjustments may be made as frequently as monthly.

(e) *Index.* (1) The adjustment in the interest rate shall correspond directly with the movement of an index agreed upon in advance. The index must be beyond the control of the Federal credit union and readily verifiable by the borrower.

(2) The amount of the rate adjustment shall reflect the difference between the initial index value and the most recently available index value as of the date the Federal credit union notifies the borrower of the adjustment/or as of the date of rate adjustment.

(3) The initial index value shall be the index value as of the date of the loan closing or a value within 6 months prior to the closing.

(4) Where the movement of the index permits an interest rate increase, the Federal credit union may decline to increase the interest rate. Any permitted interest rate increase not taken by the Federal credit union may not be used to offset subsequent movements of the index and carried over to succeeding rate-change dates.

(5) Where the index has moved downward the decrease in the interest rate is mandatory.

(6) A Federal credit union may decrease the interest rate any time.

(f) *Costs or fees.* (1) The borrower shall not be charged any costs or fees in connnection with regularly scheduled adjustments to the interest rate, the monthly payment, the outstanding principal loan balance, or the loan maturity.

(g) *Notice to borrower of payment adjustment.* (1) At least thirty (30) but not more than forty-five (45) days before adjustment in the rate of interest, the credit union shall notify the borrower in writing of the following information:

(i) The date the adjustment in the rate is scheduled and how the adjustment will be implemented;

(ii) The interest rate on the loan before and after the adjustment;

(iii) The index value before and after the adjustment;

(iv) The monthly payment before and after the adjustment;

(v) The projected outstanding balance of the loan as of the date of the adjustment date;

(vi) The period of time for which the interest rate will be in effect;

(vii) The fact that the borrower may pay off the loan in whole or in part without penalty; and

(viii) The name and telephone number of an employee of the Federal credit union who can answer questions about the notice.

Alternative No. 1

(h) *Disclosure.* An applicant must be given a disclosure notice in accordance with the Truth in Lending Act and Regulation Z. Federal credit unions are permitted to disclose additional material to the borrower as determined appropriate by the board of directors of the Federal credit union.

Alternative No. 2

(h) *Disclosure.* Each Federal credit union that offers adjustable rate mortgage loans must have available and give each prospective applicant at the time of or within three days of application a disclosure notice in accordance with the Truth in Lending Act and Regulation Z and a written statement in commonly understood language summarizing how the adjustable rate mortgage will work (what the index will be, how often increases will occur, how the increase will be calculated, what the effect of an increase will be on the monthly payment, etc.). The statement will be adequate to enable the member to easily compare the terms of the adjustable rate mortgage with those offered by other institutions.

[FR Doc. 81-18032 Filed 6-16-81; 8:45 am]
BILLING CODE 7535-01-M

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12 CFR Part 701

Participation Loans; Purchase, Sale, and Pledge of Eligible Obligations

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: In accordance with its ongoing program of updating, clarifying, and simplifying existing regulations, the National Credit Union Administration (NCUA) has conducted a review of its regulation governing participation loans. As a result of this review, NCUA proposes (1) to amend the regulation to permit Federal credit unions to participate with other lenders in extending lines of credit to credit union members; (2) to delete from the regulation the requirement that specific provisions appear in the participation agreement; and (3) to permit the use of repurchase provisions. Because NCUA's regulation governing the purchase, sale, and pledge of eligible obligations (loans) was drafted to impose the same restrictions on those activities that are placed on participations (in order not to favor one arrangement over another), NCUA also proposes to make similar changes in that regulation. In addition, NCUA proposes to amend its regulation governing participation loans to clarify that the programs currently operated by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Government National Mortgage Association are not participation loan programs as that term is used in NCUA regulations.

DATES: Comments must be received on or before July 10, 1981.

ADDRESS: Send comments to: 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: John L. Culhane, Jr., Senior Attorney, Office of General Counsel, at the above address. Telephone number: (202) 357-1030.

SUPPLEMENTARY INFORMATION: Before Pub. L. 95-22 was passed, Federal credit unions could not participate in making loans with other lenders. Public law 95-22 granted this power and the regulation implementing it became effective on December 1, 1978. 43 FR 51610 (1978).

In accordance with its ongoing program of updating, clarifying, and simplifying existing regulations, NCUA has conducted a review of § 701.21-7, its regulation governing participation loans. As a result of this review, NCUA now proposes to make the changes discussed in detail below.

Proposed Changes—Participation Loan Regulation

1. *Definitions.* NCUA is proposing to make the following changes to the definitions which currently appear in § 701.21-7(a) of its participation loan regulation.

a. *Participation Loan.* Currently a "participation loan" is defined in § 701.21-7(a)(1) to mean "a loan, other than a line of credit loan, made in participation with one or more eligible organizations, where the written commitment to participate in the loan precedes final disbursement." At the time the regulation was drafted, several commenters requested that line of credit

loans be included in the definition. Because of concerns at the time about operational problems that might result if participation arrangements in lines of credit were permitted, and since there had been no demonstrated need expressed, NCUA determined to retain the exclusion.

Although such arrangements may cause operational problems for a Federal credit union, the NCUA Board believes that participations in lines of credit should now be allowed. the NCUA Board believes that decisions as to the operational feasibility of a participation line of credit program as compared to any other line of credit program are best made by the board of directors of the individual credit union. NCUA therefore proposes to remove the phrase "other than a line of credit loan" from the definition.

This change will permit a Federal credit union to explore participation arrangements as a means of providing lines of credit to its members. It will give Federal credit unions broad flexibility to engage in credit card programs similar to that afforded Federal savings and loan associations by regulations of the Federal Home Loan Bank Board. (45 FR 46338 (1980) (to be codified in 12 CFR 545.4–3))

b. *Financial Organization.* The term "financial organization" is defined in § 701.21–7(a)(5) to mean "any federally chartered or federally insured financial institution, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Government National Association." The more general phrase, "any federally chartered or federally insured financial institution," appears in the legislative history of Pub. L. 95–22. *See* H.R. Rep. No. 23, 95th Cong., 1st Sess. 10 (1975). In adopting final regulations, NCUA determined that the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Government National Mortgage Association were included within the more general phrase "any federally chartered or federally insured financial institution." (43 FR 51610 (1978))

However, NCUA proposes to delete the specific references to those agencies from the definition in order to avoid further confusion. Because those organizations are specifically listed in the definition, there has been some uncertainty among Federal credit unions as to when the regulation applies. If the regulation applies, then a credit union originating participation loans is required to retain an interest of at least 10 percent of the face amount of the loans. (12 CFR 701.21–7(c)(2)) As a result, Federal credit unions often ask if the regulation applies in the event a credit union obtains a pre-commitment of funds from one of these organizations, originates loans, and then sells those loans to the organization.

NCUA believes this transaction is governed by its regulation on the sale of loans, rather than by its participation loan regulation. The participation regulation applies where a third party funnels funds into the credit union with the intent of actually participating in *making* the loan, for example, where the participant will assist in preparing the loan documentation and the participant's funds will actually be disbursed at origination. The participation requlation does not apply when an organization merely arranges to purchase loans subsequently originated by the credit union.

c. *Participation Account.* Section 701.21–7(a)(7) defines the term "participation account" as "a special payable account established for the accumulation of loan payments awaiting distribution to participants." NCUA proposes to delete this definition. The term only appears in a section of the regulation that prescribes certain contract terms which must appear in the participation agreement. As discussed further below, NCUA is now proposing to delete that section from the regulation. Consequently, the definition will no longer be necessary.

2. Minimum Terms. At present, § 701.21–7(b)(2) requires the participation agreement to include provisions which:

(i) Identify the participation loan or loans;

(ii) Provide for the collection, processing, and/or remittance of payments of principal and interest, late charges, service charges, escrow accounts (if required), and participation accounts;

(iii) Provide that in the event of a loss each participant shall share in the loss equal to its interest in the participation loan;

(iv) Provide for the distribution of payments of principal to each participant proportionate to its interest in the participation loan;

(v) provide for loan status reports to each participant; and

(vi) State the terms and conditions under which the agreement may be terminated or modified.

Because participation lending was new to Federal credit unions, NCUA felt it necessary to require that certain provisions appear in the participation agreement. Most of these provisions were required so that the agreement would cover otherwise unforeseen situations that might create problems during the life of a loan. Others were required so that each participant would be treated equitably with regard to the distribution of payments of principal and the sharing of any losses. Although NCUA continues to believe it prudent to include such provisions in participation agreements, the NCUA Board believes that each credit union can best draft agreements for the individual participation arrangements it makes.

NCUA therefore proposes to delete from the regulation all requirements save for the requirement that loans be identified. (The NCUA Board believes that identification of loans will be necessary for examination purposes.) For the most part, neither the regulations issued by the Office of Comptroller of the Currency nor the regulations issued by the Federal Home Loan Bank Board dictate the terms that must appear in participation agreements. 12 CFR 7.1135, 7.2120 (national banks); 12 CFR 545.8, 563.9–1 (insured savings and loan associations). *See* 45 FR 76104, 76109 (1980) (to be codified in 12 CFR 545.7–10) (Federal savings and loan associations). Consequently, this change will also give Federal credit unions the same flexibility that national banks and Federal savings and loan associations have in drafting their participation agreements.

3. Recourse or Repurchase Provisions. Currently § 701.21–7(b)(3) prohibits the use of recourse or repurchase provisions. An originating lender can, however, enter into an agreement which requires the lender to repurchase because of any breach of warranty or misrepresentation, an agreement which allows the lender to repurchase at its discretion, and an agreement which allows the lender to substitute one loan for a participation loan.

These restrictions were imposed in order to prevent a credit union from having a large number of contingent liabilities which could affect its solvency at some future date. At the same time, NCUA hoped to provide sufficient flexibility so as not to impede a credit union from reacquiring a member's loan in cases where the member might be encountering temporary financial difficulties. Nonetheless, the NCUA Board is concerned that the prohibition on repurchases may impair the ability of Federal credit unions to compete with other financial institutions.

The NCUA Board notes that both national banks and Federal savings and loan associations are permitted to enter into participation agreements containing repurchase provisions. In both instances, however, an agreement

containing a repurchase obligation is considered to be a borrowing. 12 CFR 7.7519 (national banks); 46 FR 13682 (1981) (to be codified in 12 CFR 563.8) (insured savings and loan associations). In order to better enable a Federal credit union to compete with other financial institutions, the NCUA Board therefore proposes to remove the regulatory language that prevents a Federal credit union from entering into a participation agreement containing a repurchase or recourse provision. However, such a repurchase or recourse obligation would be considered a borrowing subject to the statutory limit set out at 12 U.S.C. 1757 (50 percent of a credit union's paid-in and unimpaired capital and surplus).

The exceptions presently permitted would continue to apply. Hence a Federal credit union could enter into an agreement which requires it to repurchase a loan because of any breach of warranty or misrepresentation, an agreement which allows it to repurchase a loan at its discretion, and an agreement which allows the Federal credit union to substitute another loan for a participation loan. As long as the obligation did not otherwise contain a repurchase or recourse provision, it would not be considered a borrowing subject to the statutory limit set out at 12 U.S.C. 1757.

Proposed Changes—Purchase, Sale and Pledge of Eligible Obligations Regulation

In drafting § 701.21–8, its regulation governing the purchase, sale and pledge of eligible obligations, NCUA followed the same format used in drafting its participation loan regulation. With the exception of different restrictions specifically imposed by the Federal Credit Union Act, restrictions similar to those placed on participation loans were adopted. This was done so that NCUA's regulations would not favor any one arrangement over another, thus leaving to the discretion of a credit union's board of directors the decision as to how best to structure any particular transaction. *See* 44 FR 60, 61 (1979).

Consequently, although this regulation will be reviewed more thoroughly at a later date, the NCUA Board believes it important to propose corresponding changes to the purchase, sale and pledge of eligible obligations regulation at this time. NCUA is therefore proposing to permit the purchase, sale and pledge of lines of credit; to remove the requirements that certain terms appear in contracts for the purchase, sale or pledge of loans (and as a result of this change to delete the definition of the term "obligation account"); and to permit repurchase provisions in sale agreements.

Procedures for Regulatory Development

The NCUA Board is providing for a comment period of less than 60 days on this proposed rule because the proposed rule relieves regulatory burdens and because delay may not be in the public interest. Further delay would prevent Federal credit unions from participating with other lenders in extending lines of credit to their members and would prohibit Federal credit unions from drafting more flexible participation agreements, thus putting Federal credit unions at a competitive disadvantage.

The NCUA Board certifies that the proposed changes, if adopted, will not have a significant economic impact on a substantial number of small Federal credit unions (Federal credit unions with less than $1,000,000 in assets). The NCUA Board believes that only a few credit unions under $1,000,000 in assets are making participation loans. Therefore a substantial number of small Federal credit unions will not be affected. In addition, because the proposed changes would increase the management flexibility of small credit unions, increase their competitive positions, and reduce their paperwork burden, a regulatory flexibility analysis is not required. 5 U.S.C. 605(b).

Furthermore, since the proposed rule would reduce burdens where delay would cause unnecessary harm, the NCUA Board finds that full consideration of all the policies of the Regulatory Simplification Act is impracticable. However, the NCUA Board has considered most of these policies, as set forth in the preamble above.

Accordingly, NCUA proposes to amend §§ 701.21–7 and 701.21–8 of its existing rules and regulations as set forth below.

(12 U.S.C. 1757, 1766(a), 1789(a)(11))

Dated: June 12, 1981.

Beatrix D. Fields,

Acting Secretary, NCUA Board.

§ 701.21–7 [Amended]

1. Section 701.21–7 is amended by removing paragraphs (a)(7) and (b)(3).

2. Section 701.21–7 is amended by redesignating paragraph (b)(4) as paragraph (b)(3).

3. Section 701.21–7 is amended by revising paragraphs (a)(1), (a)(5), and (b)(2) to read as follows:

§ 701.21–7 Loan participation.

(a) For purposes of this section:

(1) "Participation loan" means a loan made in participation with one or more eligible obligations, where the written commitment to participate in the loan precedes final disbursement.

* * * * *

(5) "Financial organization" means any federally chartered or federally insured financial institution.

* * * * *

(b) * * *

(2) Prior to final disbursement, a written participation agreement shall be properly executed, acted upon by the Federal credit union's board of directors or the investment committee and retained in the Federal credit union's office. At a minimum, the agreement shall include provisions which identify the participation loan or loans.

* * * * *

§ 701.21–8 [Amended]

3. Section 701.21–8 is amended by removing paragraphs (a)(4), (b)(3), (c)(2), and (c)(3).

4. Section 701.21–8 is amended by redesignating paragraph (b)(4) as paragraph (b)(3), by redesignating paragraph (c)(1) as paragraph (c), by redesignating paragraph (c)(1)(i) as paragraph (c)(1), and by redesignating paragraph (c)(1)(ii) as paragraph (c)(2).

5. Section 701.21–8 is amended by revising paragraphs (a)(1) and (d)(2) to read as follows:

§ 701.21–8 Purchase, sale and pledge of eligible obligations.

(a) For purposes of this section:

(1) "Eligible obligation" means a loan or group of loans;

* * * * *

(d) * * *

(2) The pledge agreement shall, at a minimum, identify the eligible obligations covered by the agreement.

* * * * *

[FR Doc. 81-18030 Filed 6-16-81; 8:45 am]

BILLING CODE 7535-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 453

Funeral Industry Practices: Rescheduling of Oral Presentation and Scheduling of Subsequent Commission Meeting

AGENCY: Federal Trade Commission.

ACTION: Rescheduling of Oral Presentation and Scheduling of Subsequent Commission Meeting.

SUMMARY: On January 22, 1981, the Commission published in the **Federal Register** (46 FR 6976) a notice establishing a comment period, rebuttal period, and oral presentation on a

revised proposed rule to regulate funeral industry practices. The oral presentation was scheduled for May 13, 1981. On April 14, 1981, the Commission published a notice in the **Federal Register** (46 FR 21784) extending the rebuttal comment period and rescheduling the oral presentation for June 17, 1981. This notice reschedules the oral presentation for the morning of July 7, 1981 and the morning of July 8, 1981, and establishes July 15, 1981 as the date when the Commission will meet to consider what action it will take on the proposed rule.

DATES: An oral presentation on the proposed funeral rule will be held on the morning of July 7, 1981 and the morning of July 8, 1981. A Commission meeting on the proposed rule will be held on July 15, 1981.

FOR FURTHER INFORMATION CONTACT: Robert A. M. Schick, Program Advisor, Funeral Industry Project, Federal Trade Commission, Room 263, 6th and Pennsylvania Ave. NW., Washington, D.C. 20510, telephone (202) 523–3885.

Carol M. Thomas,

Secretary.

[FR Doc. 81–18016 Filed 6–16–81; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM79–55]

Regulations Under Sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 With Regard to Small Power Production and Cogeneration; Notice of Extension of Comment Period

June 12, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Extension of Comment Period.

SUMMARY: On Janaury 9, 1981, the Commonwealth of Massachusetts, Department of Public Utilities, filed with the Federal Energy Regulatory Commission a request for a declaratory order pursuant to § 1.7(c) of the Commission's rules. The Commonwealth of Massachusetts requests the Commission to issue a declaratory order clarifying the method of calculation of avoided cost for all requirements. Utilities which is currently set out in 18 CFR 292. 303(d). The Commission is extending the period during which comments may be filed, pursuant to § 1.7(e) of the Commission's rules of practice and procedure.

DATE: Written comments are due July 17, 1981.

ADDRESS: File comments with: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, Reference: Docket No. RM79–55.

FOR FURTHER INFORMATION CONTACT: Glenn Berger, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION: The general contents of the Commonwealth of Massachusetts' petition are set out in 46 FR 26353 (May 12, 1981).

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–18014 Filed 6–16–81; 8:45 am]

BILLING CODE 6450–85–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 41

[DoD Directive 1332.14]

Enlisted Administrative Separations

AGENCY: Office of the Secretary, DOD.

ACTION: Proposed rule.

SUMMARY: The Department of Defense proposes to revise its directive governing enlisted administrative separations. The proposal sets forth the criteria for characterizing certain separations. The revision also authorizes certain separations by an order of release from the custody and control of the Armed Forces. The revision clarifies the procedure that will be used when the member is subject to involuntary separation or is being recommended for separation with a general discharge and the member is not entitled to a hearing before a separation board.

DATE: Written comments must be received by August 17, 1981.

ADDRESS: Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), the Pentagon, Room 3C980, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: LTC R. F. Baker, USA, telephone 202–697–9283.

SUPPLEMENTARY INFORMATION: In FR Doc. 81–3445 appearing in the **Federal Register** (46 FR 9571) on January 29, 1981, the Office of the Secretary of Defense reissued a revised Part 41 that incorporates changes 1 (January 31, 1977) and 2 (January 16, 1981). Change 2 reaffirmed DoD policy that homosexuality is incompatible with military service and clarified procedures to be used in processing enlisted members for separation. The policies and procedures on discharge for homosexuality have been included in the proposed rule. On June 19, 1979, the Department of Defense published for comment by July 19, 1979, a proposed revision of DoD Directive 1332.14 (44 FR 35248).

The comment period was extended to August 14, 1979 (44 FR 42696). The proposed rule was not adopted and the rule-making was terminated. A new project to revise Part 41 was initiated in October 1980. This proposed rule is the result of that project and further modifies this Part. Although Part 41 pertains solely to agency management and personnel, thus obviating the requirement under 32 CFR 296 (1978) for notice and public comment, the proposed rule nonetheless is set forth herein to obtain the views of the public.

Specific Modifications. The revision establishes the first 180 days of a member's initial enlistment as "Entry Level Status." The service of members separated during this period will normally be described as an "Entry Level Separation," except when an Under Other Than Honorable Conditions Separation is appropriate for members separated by reasons such as misconduct or in lieu of trial by court-martial. The Secretaries of the Military Departments may approve an honorable separation during this period on a case by case basis when warranted by unusual circumstances. The revision also authorizes certain separations of members by an order of release from the custody and control of the Armed Forces in the case of a void enlistment, and, in certain circumstances, provides for separation by dropping the members from rolls. The revision allows certain members to transfer to the Individual Ready Reserve who, though separated early, are determined to be potential mobilization assets.

A new notification procedure has been established that requires the member to be notified in writing of the basis for separation, the effect of such separation, the right to submit statements, and the right to consult with counsel.

An honorable characterization is authorized upon completion of enlistment, general demobilization, special early release, acceptance of a commission, or appointment or discharge for immediate reenlistment.

The revision provides for the separation of members with an honorable, general, or entry level separation when they fail to complete a Drug or Alcohol Rehabilitation Program, when they lack potential for continued military service, or when long-term rehabilitation is necessary. Moreover, the revision provides for the deletion of the marginal performer program and substitution of a Trainee Separation Program which will apply during a member's first 180 days. Also deleted is separation for unsuitability, which is replaced by Unsatisfactory Performance.

Nothing in this proposal has express retroactive application to individuals previously separated or discharged from military service.

Accordingly, it is proposed to revise 32 CFR Part 41 reading as follows:

PART 41—ENLISTED ADMINISTRATIVE SEPARATION

Sec.
41.1 Reissuance and purpose.
41.2 Applicability and scope.
41.3 Policy.
41.4 Responsibilities.
41.5 Definitions.
41.6 Reasons for separation.
41.7 Guidelines for retention, suspension of separation, and characterization.
41.8 Procedures for separation.

Authority: Title 10, U.S.C. 1162, 1163, 1169, 1170, 1172, and 1173.

§ 41.1 Reissuance and purpose.

This Part establishes policies, standards, and procedures governing the administrative separation of enlisted persons from the Military Services.

§ 41.2 Applicability and scope.

The provisions of this Part apply to the Military Departments, including the Reserve Components thereof, and, by agreement with the Secretary of Transportation, to the Coast Guard. When the term "Military Department" is used in this Part, the Coast Guard is included.

§ 41.3 Policy.

(a) Separation policy promotes the readiness of the armed forces by providing a means to —

(1) Achieve authorized force levels and grade distributions;

(2) Provide for the orderly administration separation of military personnel in a variety of circumstances;

(3) Insure that the armed forces are served by individuals capable of meeting appropriate standards of duty performance and discipline; and

(4) Maintain standards of performance and conduct throughout characterization of separations.

(b) The armed forces make a substantial investment in training, time, equipment, and related expenses when persons are enlisted or inducted into the military. The loss of this investment when an individual is separated prior to completion of his or her term of service represents an inefficient use of defense resources. Early separation also is wasteful because it generates a requirement for increased accessions, thereby producing an unnecessary burden on recruiting operations. Consequently, attrition is an issue of significant concern at all levels of responsibility within the armed forces. Every reasonable effort must be made to identify persons who exhibit a likelihood for early separation, and to improve their chances for retention through counseling, retraining, and rehabilitation prior to initiation of separation procedures.

(c) Standards and procedures for implementation of these policies are set forth in § 41.5. through § 41,.8.

§ 41.4 Responsibilities.

(a) Each Military Department shall prescribe appropriate internal procedures for periodic explanation to enlisted members of the types of discharges, the basis for their issuance, the possible effects of various discharges upon reenlistment, civilian employment, veteran's benefits, and related matters, and the effects of 10 U.S.C. 977 concerning denial of certain benefits to members who fail to complete at least two years of an original enlistment. Such explanation may be provided in the form of a written fact sheet or similar document. The periodic explanation shall take place at least each time the provisions of the Uniform Code of Military Justice (UCMJ) ae explained pursuant to Article 137 of the UCMJ. The requirement that the effects of the various types of discharges be explained to military personnel is a command responsibility, not a procedural entitlement. Failure on the part of the member to receive or to understand such explanation does not create a bar to separation or characterization.

(b) Each Military Department shall ensure that information concerning the purpose and authority of the Discharge Review Board and the Board for Correction of Military-Naval Records, established pursuant to Title 10, United States Code, Sections 1552 and 1553 and 32 CFR 70 is provided during the separation processing of all members. Specific counseling is required under Title 38, Section 3103(a) which states that a discharge under other than honorable conditions, resulting from a period of continuous, unauthorized absence of 180 days or more, is a conditional bar to benefits administered by the Veterans Administration, notwithstanding any action by a Discharge Review Board. Such counseling should be provided in the form of a written fact sheet or similar document. Failure on the part of the member to receive or to understand such explanation does not create a bar to separation or characterization.

(c) Each Military Department shall establish processing time goals for the types of administrative separation authorized by this Part. Such goals shall be designed to further the efficient administration of the armed forces and shall be measured from the date of notification to the date of separation. Normally such goals should not exceed 15 working days for a Notification Procedure (§ 41.8(b)) and 50 working days for an Administrative Separation Board Procedure (§ 41.8(c)). Goals for shorter processing times are encouraged, particularly for cases in which expeditious action is likely. Variations may be established for complex cases or cases in which the Separation Authority is not located on the same facility as the respondent. The goals, and a program for monitoring effectiveness, shall be set forth in the implementing document issued by the Military Department. Failure to process an administrative separation within the prescribed goal for processing times shall not create a bar to separation or characterization.

(d) The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) is delegated the authority to modify or supplement the enclosures to this Part.

§ 41.5 Definitions.

(a) *Member.* An enlisted member of a Military Service.

(b) *Discharge.* Complete severance from all military status.

(c) *Release from Active Duty.* Termination of active duty status and transfer or reversion to a Reserve Component not on active duty, including transfer to the Individual Ready Reserve (IRR).

(d) *Separation.* A general term which includes discharge, release from active duty, release from custody and control of the armed forces, or transfer to a Reserve Component.

(e) *Military Record.* An individual's overall performance while a member of a Military Service, including personal conduct and performance of duty.

(f) *Separation Authority.* An official authorized by a Military Service to take final action with respect to a specified

type of separation. This term includes a commanding officer who is authorized to initiate action even if the authority to take final action is vested in a higher authority.

(g) *Respondent.* A member of a Military Service who has been notified that action has been initiated to separate the member.

(h) *Counsel.* A lawyer qualified under Article 27(b)(1) of the Uniform Code of Military Justice (UCMJ), or a civilian lawyer retained at the member's expense. Under regulations prescribed by the Secretary concerned, nonlawyer counsel may be appointed for purposes of consultation under circumstances where counsel qualified under Article 27(b)(1) is not reasonably available. Nonlawyer counsel may not represent a respondent before an Administrative Separation Board unless (1) the respondent expressly declines appointment of counsel qualified under Article 27(b)(1) and requests a specific nonlawyer counsel; or (2) the Separation Authority assigns nonlawyer counsel to assist counsel qualified under Article 27(b)(1) or retained at the member's expense.

(i) *Entry Level Status.* The first 180 days of continuous active duty in a member's initial term of service. For purposes of characterization or description of service, the member's status is determined by the date of notification as to the initiation of separation proceedings.

(j) *Non-Commissioned Officer.* An enlisted member of a military service: (1) in grade E–5 or higher or (2) in grade E–4 and designated as a non-commissioned officer in accordance with implementing documents of the Military Department concerned.

§ 41.6 Reasons for separation.

(a) *Expiration of Service Obligation and Similar Changes in Military Status.*

(1) *Basis.* A member may be separated for the following reasons:

(i) Expiration of enlistment or fulfillment of service obligation. This includes separation authorized by the Military Department concerned when the member is within 30 days of the date of expiration of term of service and—

(A) the member is serving outside the continental United States (CONUS); or

(B) The member is a resident of a state, territory, or possession outside CONUS and is serving outside the member's state, territory, or possession of residence.

(ii) General demobilization or reduction in authorized strength.

(iii) Early separation of personnel under a program established by the Military Department. A copy of the document authorizing such program shall be forwarded to the ASD (MRA&L) on or before the date of implementation.

(iv) Acceptance of an active duty commission or appointment, or acceptance into a program leading to such a commission or appointment in any branch of the Military Services.

(v) Immediate enlistment or reenlistment.

(2) *Characterization or Description of Service.* Honorable, unless—

(i) An entry Level Separation is authorized; or

(ii) Another characterization is warranted upon discharge from the IRR under § 41.8(e).

(b) *Convenience of the Government.*

(1) *Basis.* A member may be separated for convenience of the government for the reasons set forth in paragraph (b)(4) of this section.

(2) *Characterization or Description of Service.* Honorable, unless—

(i) An Entry Level Separation is authorized; or

(ii) Characterization of the separation as General is warranted under § 41.7(c).

(3) *Procedures.* Procedural requirements may be established by the military departments, subject to provisions of paragraph (b)(4) of this section. Prior to separation with a General Discharge, the member shall be notified of the specific factors in the service record that warrant such a characterization, and the Notification Procedure (§ 41.8(b)) shall be used. Such notice and procedure is not required, however, when a General Discharge is based upon numerical scores accumulated in a formal, service-wide rating system that evaluates conduct and performance on a regular basis.

(4) *Reasons.*

(i) *Early release to further education.* A member be separated under DoD Directive 1332.15, "Early Release of Military Enlisted Personnel for College or Vocational/Technical School Enrollment," June 1, 1976, to attend a college, university, or vocational or technical school.

(ii) *Early release to accept public office.* A member may be separated to accept public office only under circumstances authorized by the Military Department concerned and consistent with DoD Directive 1344.10, "Political Activities by Members of the Armed Forces," September 23, 1969.

(iii) *Dependency or Hardship.* Upon request of the member and concurrence of the government, separation may be directed when genuine dependency or undue hardship exists, and—

(A) The hardship or dependency is not temporary;

(B) Conditions have arisen or have been aggravated to an excessive degree since entry into the service and the member has made every reasonable effort to remedy the situation;

(C) The administrative separation will eliminate or materially alleviate the condition; and

(D) There are no other means of alleviation reasonably available.

Undue hardship does not necessarily exist solely because of altered present or expected income, family separation, or other inconveniences normally incident to military service.

(iv) *Pregnancy or childbirth.* A female member may be separated on the basis of pregnancy or childbirth upon her request, unless retention is determined to be in the best interests of the service under guidance established by the Military Department concerned.

(v) *Parenthood.* A member may be separated by reason of parenthood if as a result of thereof the member is unable satisfactorily to perform his or her duties or is unavailable for worldwide assignment or deployment. Prior to involuntary separation under this provision, the Notification Procedure (§ 41.8(b)) shall be used.

(vi) *Conscientious objection.* A member may be separated if authorized under 32 CFR 75.

(vii) *Surviving family member.* A member may be separated if authorized under 32 CFR 52.

(viii) *Other designated physical or mental conditions.*

(A) The Military Departments may authorize separation on the basis of other designated physical or mental conditions, not amounting to Disability (§ 41.6(c)), Enclosure, that potentially interfere with assignment to or performance of duty. Such conditions may include but are not limited to chronic seasickness or airsickness, enuresis, and personality disorder. Separation on the basis of personality disorder is authorized only if—

(*1*) There is an insufficient basis for separation under Defective Enlistments or Inductions (§ 41.6(d)), the Trainee Separation Program (§ 41.6(e)), Unsatisfactory Performance (§ 41.6(f)), Homosexuality (§ 41.6(g)), Drug or Alcohol Rehabilitation Failure (§ 41.6(h)), or Misconduct (§ 41.6(i)); and

(*2*) A diagnosis by a psychiatrist, completed in accordance with procedures established by the Military Department concerned, concludes that the disorder is so severe that the member's ability to function effectively in the military environment is significantly impaired.

(B) Nothing in this provision precludes separation of a member who has such a condition under any other basis set forth under Convenience of the Government or for any other reason authorized by this Part.

(C) Prior to involuntary separation under this provision, the Notification Procedure (§ 41.8(b)) shall be used.

(ix) *Additional grounds.* The Military Departments may provide additional grounds for separation for the convenience of the government. A copy of the document authorizing such grounds shall be forwarded to the ASD(MRA&L) on or before the date of implementation.

(c) *Disability.*

(1) *Basis.* A member may be separated for disability under the provisions of chapter 61 of title 10, United States Code.

(2) *Characterization or Description of Service.* Honorable, unless—

(i) An Entry Level Separation is authorized; or

(ii) Characterization of the separation as General is warranted under § 41.7(c).

(3) *Procedures.* Procedural requirements may be established by the Military Departments. Prior to separation with a General Discharge, the member shall be notified of the specific factors in the service record that warrant such a characterization, and the Notification Procedure (§ 41.8(b)) shall be used. Such notice and procedure is not required, however, when a General Discharge is based upon numerical scores accumulated in a formal, service-wide rating system that evaluates conduct and performance on a regular basis.

(d) *Defective Enlistments and Inductions.*

(1) *Minority.*

(i) *Basis.*

(A) *Under age 17.* If a member is under the age of 17, the enlistment of the member is void, and the member shall be separated.

(B) *Age 17.* A member shall be separated if—

(*1*) There is evidence satisfactory to the Secretary concerned that the member is under 18 years of age;

(*2*) The member enlisted without the written consent of the member's parent or guardian; and

(*3*) An application for the member's separation is submitted to the Secretary concerned by the parent or guardian within 90 days of the member's enlistment.

Separation under this provision is not required when the member is retained for the purpose of trial by court-martial.

(ii) *Characterization or Description of Service.* The separation of the member shall be described as an Entry Level Separation unless an order of release from the custody and control of the armed forces (by reason of void enlistment or induction) is required under § 41.7(c)(4).

(iii) *Procedure.* The Notification Procedure (§ 41.8(b)) shall be used, except that the counseling and rehabilitation provisions in § 41.7(b)(1) are not applicable.

(2) *Erroneous.*

(i) *Basis.* A member may be separated on the basis of an erroneous enlistment, induction, or extension of enlistment. An enlistment, induction, or extension of enlistment is erroneous if—

(A) It would not have occurred had the relevant facts been known by the government or had appropriate directives been followed;

(B) It was not the result of fraudulent conduct on the part of the member; and

(C) The defect is unchanged in material respects.

(ii) *Characterization or Description of Service.* Honorable, unless an Entry Level Separation is authorized or an order of release from the custody and control of the armed forces (by reason of void enlistment or induction) is required under § 41.7(c)(4).

(iii) *Procedure.* If the command recommends that the individual be retained in military service, the initiation of separation processing is not required under this provision if—

(A) The defect is no longer present; or

(B) The defect is waivable and a waiver is obtained from appropriate authority.

If separation processing is initiated, the Notification Procedure (§ 41.8(b)) shall be used, except that the counseling and rehabilitation provisions § 41.8(b)(1) are not applicable.

(3) *Defective Enlistment Agreements.*

(i) *Basis.* A defective enlistment agreement exists if—

(A) As a result of a material misrepresentation by recruiting personnel, upon which the member reasonably relied, the member was induced to enlist with a commitment for which the member was not qualified;

(B) The member received an enlistment commitment from recruiting personnel for which the member was qualified, but which cannot be fulfilled by the military service; or

(C) The enlistment was involuntary. *See* 10 U.S.C. 802

(ii) *Characterization or Description of Service.* Honorable, unless an Entry Level Separation is authorized or an order of release from the custody and control of the armed forces (by reason of void enlistment) is required under § 41.7(c)(4).

(iii) *Procedures.* This provision does not bar appropriate disciplinary action or other administrative separation proceedings regardless of when the defect is raised. Separation is appropriate under this provision only if—

(A) The member did not knowingly participate in creation of the defective enlistment;

(B) The member brings the defect to the attention of appropriate authorities within 30 days after the defect is discovered or reasonably should have been discovered by the member;

(C) The member requests separation in lieu of other authorized corrective action; and

(D) The request otherwise meets such criteria as may be established by the Secretary concerned.

(4) *Fraudulent Entry Into Military Service.*

(i) *Basis.* A member may be separated on the basis of procurement of a fraudulent enlistment, induction, or period of military service through any deliberate material misrepresentation, omission, on concealment which, if known at the time of enlistment, induction, or entry onto a period of military service, might have resulted in rejection.

(ii) *Characterization or Description of Service.* The separation shall be characterized or described in accordance with § 41.7(c). If the fraud involves concealment of a prior separation that was not characterized as Honorable, the separation normally shall be characterized as Under Other Than Honorable Conditions.

(iii) *Procedures.*

(A) The Notification Procedure (§ 41.8(b)) shall be used except that a separation Under Other Than Honorable Conditions may not be issued unless the Administrative Separation Board Procedure (§ 41.8(c)) is used. The counseling and rehabilitation requirements in § 41.8 (5)(b)(i) and (5)(c)(i) are not applicable.

(B) If the command recommends that the individual be retained in military service, the initiation of separation processing is unnecessary if—

(*1*) The defect is no longer present; or

(*2*) The defect is waivable and a waiver is obtained from appropriate authority.

(e) *Trainee Separation Program.*

(1) *Basis.* A member may be separated under the Trainee Separation Program when it is determined that the member is unqualified for further military service by reason of unsatisfactory performance or conduct, as evidenced by inability, lack of reasonable effort, failure to

adapt to the military environment or minor disciplinary infractions. This reason for separation may be initiated only while the member is in Initial Entry Status. (§41.5(i)).

When separation of a member [from one of the foregoing periods of service] is warranted by unsatisfactory performance or minor disciplinary infractions, the member normally should be separated under this provision. Nothing in this provision precludes separation under another provision of this Part when such separation is authorized and warranted by the circumstances of the case.

(2) *Description of Service.* Entry Level Separation.

(3) *Procedures.* The Notification Procedure (§ 41.8(b)) shall be used.

(f) *Unsatisfactory Performance.*

(1) *Basis.* A member may be separated when it is determined that the member is unqualified for further military service by reason of unsatisfactory performance as evidenced by inability or lack of reasonable effort. This reason shall not be used if the member is in Entry Level Status.

(2) *Characterization of Service.* The separation shall be characterized as Honorable or General in accordance with § 41.7(c).

(3) *Procedures.* The Notification Procedure (§ 41.8(b)) shall be used.

(g) *Homosexuality.*

(1) *Basis.*

(i) Homosexuality is incompatible with military service. The presence in the military environment of persons who engage in homosexual conduct or who, by their statements, demonstrate a propensity to engage in homosexual conduct, seriously impairs the accomplishment of the military mission. The presence of such members adversely affects the ability of the armed forces to maintain discipline, good order, and morale; to foster mutual trust and confidence among services members; to insure the integrity of the system of rank and command; to facilitate assignment and worldwide deployment of servicemembers who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the armed forces; to maintain the public acceptability of military service; and to prevent breaches of security.

(ii) As used in this Section—

(A) Homosexual means a person, regardless of sex, who engages in, desires to engage in, or intends to engage in homosexual acts;

(B) Bisexual means a person who engages in, desires to engage in, or intends to engage in homosexual and heterosexual acts; and

(C) A homosexual act means bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires.

(iii) The basis for separation may include preservice, prior service, or current service conduct or statements. A member shall be separated under this provision if one or more of the following approved findings is made:

(A) The member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are approved further findings that:

(*1*) Such conduct is a departure from the member's usual and customary behavior;

(*2*) Such conduct under all the circumstances is unlikely to recur;

(*3*) Such conduct was not accomplished by use of force, coercion, or intimidation by the member during a period of military service;

(*4*) Under the particular circumstances of the case, the member's continued presence in the Service is consistent with the interest of the Service in proper discipline, good order, and morale; and

(*5*) The member does not desire to engage in or intend to engage in homosexual acts.

(B) The member has stated that he or she is a homosexual or bisexual unless there is a further finding that the member is not a homosexual or bisexual.

(C) The member has married or attempted to marry a person known to be the same biological sex (as evidenced by the external anatomy of the persons involved) unless there are further findings that the member is not a homosexual or bisexual and that the purpose of the marriage or attempt was the avoidance or termination of military service.

(2) *Characterization or description of service.* A separation under this provision shall be characterized or described in accordance with the guidance in § 41.7(c) subject to the following: A separation Under Other Than Honorable Conditions may be issued if there is a finding that during the current term of service the member attempted, solicited, or committed a homosexual act—

(i) By using force, coercion, or intimidation;

(ii) With a person under 16 years of age;

(iii) With a subordinate in circumstances that violate customary military superior-subordinate relationships;

(iv) Openly in public view;

(v) For compensation;

(vi) Aboard a military vessel or aircraft; or

(vii) In another location subject to military control under aggravating circumstances noted in the finding that have an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.

(3) *Procedures.* The Administrative Separation Board Procedure (§ 41.8(c)) shall be used, subject to the following guidance:

(i) Separation processing shall be initiated if there is probable cause to believe separation is warranted under paragraph (g)(1)(iii) of this section.

(ii) Counseling and rehabilitation requirements are not applicable.

(iii) The Administrative Separation Board shall follow the procedures set forth in § 41.8(c)(6), except—

(A) If the Board finds that one or more of the circumstances authorizing separation under paragraph (g)(1)(iii) of this section is supported by the evidence, the Board shall recommend separation unless the Board finds that retention is warranted under the limited circumstances described in paragraph (g)(1)(iii) of this section.

(B) If the Board does not find that there is sufficient evidence that one or more of the circumstances authorizing separation under paragraph (g)(1)(iii) of this section has occurred, the Board shall recommend retention unless the case involves another basis for separation of which the member has been duly notified.

(iv) In any case in which a Separation Under Other Than Honorable Conditions is not authorized, the Separation Authority may be exercised by an officer empowered to act as Separation Authority under § 41.8(b)(5)(i).

(v) The Separation Authority shall dispose of the case according to the following provisions:

(A) If the Board recommends retention, the Separation Authority shall—

(*1*) Approve the finding and direct retention; or

(*2*) Forward the case to the Secretary concerned with a recommendation that the Secretary separate the member under the Secretary's Authority (41.6(m)).

(B) If the Board recommends separation, the Separation Authority shall:

(*1*) Approve the finding and direct separation; or

(*2*) Disapprove the finding on the basis that—

(i) There is insufficient evidence to support the finding; or

(ii) retention is warranted under the limited circumstances described in paragraph (g)(1)(iii) of this section.

(C) If there has been a waiver of Board proceedings, the Separation Authority shall dispose of the case in accordance with the following provisions:

(*1*) If the Separation Authority determines that there is not sufficient evidence to support separation under paragraph (g)(1)(iii) of this section the Separation Authority shall direct retention unless there is another basis for separation of which the member has been duly notified.

(*2*) If the Separation Authority determines that one or more of the circumstance authorizing separation under paragraph (g)(1)(iii) of this section has occurred, the member shall be separated unless retention is warranted under the limited circumstances described in that section.

(vi) The burden of proving that retention is warranted under the limited circumstances described in paragraph (g)(1)(iii) of this section rests with the member except in cases where the member's conduct was solely the result of a desire to avoid or terminate military service.

(vii) Findings regarding the existence of the limited circumstances warranting a member's retention under paragraph (g)(1)(iii) of this section are required only if:

(A) The member clearly and specifically raises such limited circumstances; or

(B) The Board or Separation Authority relies upon such circumstances to justify the member's retention.

(viii) Nothing in these procedures—

(A) Limits the authority of the Secretary concerned to take appropriate action in a case to ensure that there has been compliance with the provisions of this Part;

(B) Precludes retention of a member for a limited period of time in the interests of national security as authorized by the Secretary concerned;

(C) Authorizes a member to seek Secretarial review unless authorized in procedures promulgated by the Secretary concerned;

(D) Precludes separation in appropriate circumstances for another reason set forth in this Part; or

(E) Precludes trial by court-martial in appropriate cases.

(h) *Drug or Alcohol Rehabilitation Failure.*

(1) *Basis.*

(i) A member who has been referred to a program of rehabilitation for drug or alcohol abuse may be separated for failure to complete such a program if—

(A) There is a lack of potential for continued military service; or

(B) Long-term rehabilitation is determined necessary and the member is transferred to a civilian medical facility for rehabilitation.

(ii) Successful rehabilitation is the objective of programs concerning drug and alcohol abuse. However, if a member—whether or nor referred to such a program—is involved in drug or alcohol abuse, nothing in this provision precludes separation in appropriate cases under any other provision of this Part, including Unsatisfactory Performance (§ 41.6(d) or Misconduct (§ 41.6(i)).

(2) *Characterization or Description of Service.* A separation under this provision may be characterized as Honorable, General, or described as an Entry Level Separation in accordance with § 41.7(c).

(3) *Procedures.* The Notification Procedure (§ 41.8(b)) shall be used.

(i) *Misconduct.*

(1) *Basis.*

(i) A member may be separated for misconduct when it is determined that the member is unqualified for further military service by reason of one or more of the following circumstances:

(A) A pattern of misconduct consisting of discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline.

(B) Commission of a serious military or civilian offense if—

(*1*) The specific circumstances of the offense warrant separation;

(*2*) A punitive discharge would be authorized for the same or a closely related offense under the Manual for Court-Martial; and

(*3*) The defense of former jeopardy would not preclude a trial by courts-martial for the offense.

(C) Conviction by civilian authorities or action taken which is tantamount to a finding of guilty, including similar adjudications in juvenile proceedings when—

(*1*) The specific circumstances of the offense warrant separation, and

(*2*) A punitive discharge would be authorized for the same or a closely related offense under the Manual for Courts-Martial; or the sentence by civilian authorities includes confinement for one year of more without regard to suspension or probation.

Separation processing may be initiated even if a member has filed an appeal of a civilian conviction or has stated an intention to do so. Execution of an approved separation should be withheld pending outcome of the appeal or until the time for appeal has passed, but the member may be separated prior to final action on the appeal upon request of the member of upon direction of the Secretary concerned.

(ii) Misconduct involving homosexuality shall be processed under paragraph (g) of this section. Misconduct involving a fraudulent enlistment is considered under paragraph (d)(4) of this section. If separation of a member in Entry Level Status is warranted by reason of minor disciplinary infractions, the action should be processed under the Trainee Separation Program (§ 41.6(e)).

(2) *Characterization or Description of Service.* The separation normally shall be characterized as General or Under Other Than Honorable Conditions, but may be characterized as Honorable in accordance with the guidelines in § 41.7(c). If the member is in Entry Level Status and characterization of the separation as Under Other Than Honorable Conditions is not warranted, it shall be described as an Entry Level Separation.

(3) *Procedures.*

(i) The Administrative Board Procedure (§ 41.8(c)) shall be used, except that use of the Notification Procedure (§ 41.8(b)) is authorized if separation is based upon a pattern of minor disciplinary infractions and Separation Under Other Than Honorable Conditions is not warranted under § 41.7(c).

(ii) If the sole basis of separation is a single offense (§ 41.6(h)(1)(i)(B)) or a civilian conviction or a similar juvenile adjudication (§ 41.6(h)(1)(i)(C)) the counseling and rehabilitation requirements of § 41.8(c)(1) are not applicable.

(j) *Separation in Lieu of Trial by Court-Martial.*

(1) *Basis.* A member may be separated in lieu of trial by court-martial if charges have been preferred with respect to an offense or offenses for which a punitive discharge is authorized. This provision may not be used where Section B of paragraph 127c of the Manual for Courts-Martial provides the sole basis for a punitive discharge unless the charges have been referred to a court-martial empowered to adjudge a punitive discharge.

(2) *Characterization or Description of Service.* The separation normally shall be characterized as General or Under Other Than Honorable Conditions, but may be characterized as Honorable in accordance with the guidelines in § 41.7(c). If the member is in Entry Level Status and characterization of the

separation as Under Other Than Honorable Conditions is not warranted, it shall be described as an Entry Level Separation.

(3) *Procedures.*

(i) The request for discharge must be submitted in writing and signed by the member.

(ii) The member shall be afforded opportunity to consult with counsel. If the member refuses to do so, counsel shall prepare a statement to this effect, which shall be attached to the file, and the member shall state that he or she has waived the right to consult with counsel.

(iii) Except when the member has waived the right to counsel, the request shall be signed by counsel.

(iv) In the written request, the member shall state that he or she—

(A) Understands the elements of the offense or offenses charged;

(B) Acknowledges guilt of one or more of the offenses or any lesser included offenses for which a punitive discharge is authorized;

(C) Understands that a separation Under Other Than Honorable Conditions is authorized; and

(D) Understands the adverse nature of such a characterization and possible consequences thereof.

(v) The Separation Authority shall be a commander exercising general court-martial jurisdiction or higher authority.

(vi) Statements submitted in connection with a request under this paragraph are not admissible in courts-martial except as authorized under Military Rule of Evidence 410, Manual for Courts-Martial.

(k) *Security.*

(1) *Basis.* When retention is clearly inconsistent with the interest of national security, a member may be separated by reason of security and under conditions and procedures established by the Secretary of Defense in DoD 5200.2–R, "Personal Security Program," December 1979, or similar directives applicable to the Coast Guard.

(2) *Characterization or Description of Service.* The separation shall be characterized or described in accordance with § 41.7(c).

(l) *Unsatisfactory Participation in the Ready Reserves.*

(1) *Basis.* A member may be separated for unsatisfactory participation in the Ready Reserves under criteria established by the Secretary concerned under 32 CFR 100.

(2) *Characterization or Description of Service.* The separation shall be characterized in accordance with § 41.7(c), 32 CFR 100.

(3) *Procedures.* The Administrative Board Procedure (§ 41.8(b)) shall be used.

(m) *Secretarial Plenary Authority.*

(1) *Basis.* The Secretary concerned may direct the separation of any member prior to expiration of term of service after determining it to be in the best interests of the Service.

(2) *Characterization or Description of Service.* Honorable, unless—

(i) An Entry Level Separation is authorized; or

(ii) Characterization of the separation as General is warranted under § 41.7(c).

(3) *Procedures.* Prior to involuntary separation, the notification procedure (§ 41.8(b)(1) shall be used, except the provisions for counseling and rehabilitation (§ 41.8(b)) and the right to request an Administrative Separation Board (§ 41.8(b)(2)(vi)) are not applicable.

(n) *Reasons Established by the Military Department.*

(1) *Basis.* The Military Departments may establish additional reasons for separation for circumstances not otherwise provided for in this Part to meet their specific requirements, subject to approval by the Assistant Secretary of Defense (MRA&L).

(2) *Characterization or Description of Service.* The separation shall be characterized or described in accordance with § 41.7(c).

(3) *Procedures.* The procedures shall be established by the Military Department consistent with the procedures contained in this Part.

§ 41.7 Guidelines for retention, suspension of reporting and characterization

(a) *Separation*

(1) *Policy.* There is a substantial investment in the training of persons enlisted or inducted into the armed forces. As a general matter, reasonable efforts at rehabilitation should be made prior to initiation of separation proceedings.

(2) *Guidance.*

(i) This general guidance shall be considered in conjunction with the specific guidance set forth for the specific reasons for separation in § 41.6.

(ii) Unless separation is mandatory, the potential for rehabilitation and further useful military service shall be considered by the Separation Authority and, where applicable, the Administrative Separation Board. If separation is warranted despite the potential for rehabilitation, consideration should be given to suspension of the separation, if authorized. An alleged or established inadequacy in previous rehabilitative efforts does not provide a legal bar to separation.

(iii) The following factors may be considered on the issue of retention or separation, depending on the circumstances of the case:

(A) The seriousness of the circumstances forming the basis for initiation of separation proceedings, and the effect of the member's continued retention on military discipline, good order, and morale.

(B) The likelihood of continuation or recurrence of the circumstances forming the basis for initiation of separation proceedings.

(C) The likelihood that the member will be a disruptive or undesirable influence in present or future duty assignments.

(D) The ability of the member to perform duties effectively in the present and in the future, including potential for advancement or leadership.

(E) The member's rehabilitative potential.

(F) The member's entire military record.

(*1*) This may include:

(*i*) Past contributions to the service, assignments, awards and decorations, evaluation ratings, and letters of commendation;

(*ii*) Letters of reprimand or admonition, counseling records, records of nonjudicial punishment, records of convinction by court-martial; and

(*iii*) Any other matter deemed relevant by the Board, if any, or the Separation Authority, based upon the specialized training, duties, and experience of persons untrusted by this Part with recommendations and decisions on the issue of separation or retention.

(*2*) The following guidance applies to consideration of matter under subparagraph (*1*):

(*i*) Adverse matter from a prior enlistment or period of military service, such as records of nonjudicial punishment and convictions by courts-martial, may be considered only when such records would have a direct and strong probative value in determining whether separation is appropriate. The use of such records ordinarily shall be limited to those cases involving patterns of conduct manifested over an extended period of time.

(*ii*) Isolated incidents and events that are remote in time, normally have little probative value in determining whether administrative separation should be effected.

(3) *Limitations on separation actions.*

(i) A member may not be separated on the basis of conduct that—

(A) Has been the subject of judicial proceedings resulting in an acquittal or action having the effect thereof except when such action is based upon a judicial determination not going to the guilt or innocence of the respondent; or

(B) Has been the subject of administrative proceedings resulting in a final determination by a Separation Authority that the member should be retained, except as provided in § 41.8(c)(7).

(ii) The limitations in this Section apply to the following reasons for separation under § 41.6 Fraudulent Entry into Military Service (§ 41.7(d)(4)), Homosexuality (§ 41.7(g)), Drug or Alcohol Rehabilitation Failure (§ 41.7(h)), and Misconduct (§41.7(i)).

(b) *Suspension of Separation.*

(1) *Suspension.*

(i) Unless prohibited by this Part, a separation may be suspended for a specified period of not more than 12 months by the Separation Authority or higher authority if the circumstances of the case indicate a reasonable likelihood of rehabilitation.

(ii) During the period of suspension, the member shall be afforded an opportuinty to meet appropriate standards of conduct and duty performance.

(iii) Unless sooner vacated or remitted, execution of the approved separation shall be remitted upon completion of the probationary period, upon termination of the member's enlistment or period of obligated service, or upon decision of the Separation Authority that the goal of rehabilation has been achieved.

(2) *Action during the period of suspension.*

(i) Behavior during the period of suspension amounting to Unsatisfactory Performance, Homosexuality, or Misconduct may establish the basis for one or more of the following actions:

(A) Disciplinary action;

(B) New administrative action; or

(C) Vacation of the suspension accompanied by execution of the separation.

(ii) Prior to vacation of a suspension, the member shall be notified in writing of the basis for the action and shall be afforded the opportunity to consult with counsel and submit a statement in writing to the Separation Authority. If such a statement is submitted in a case in which the suspended separation resulted from a proceeding initiated under § 41.8(c) (Administrative Separation Board Procedure), the matter shall be reviewed by a judge advocate prior to final action by the Separation Authority.

(c) *Characterization or Description of Separation.*

(1) *Types of separation.*

(i) The following types of separation are authorized under this Directive:

(A) Characterization as Honorable, General, or Under Other than Honorable Conditions.

(B) Entry Level Separation.

(C) Order of release from the custody and control of the armed forces by reason of void enlistment or induction.

(D) Separation from the Delayed Entry Program under Honorable Conditions.

(E) Separation by being dropped from the rolls of the service.

(ii) Any of the types of separation listed in this section may be used in appropriate circumstances unless a limitation as to characterization with respect to the specific reason for separation is set forth in §41.6 (Reasons for Separation) or in this section.

(2) *Characterization.*

(i) *General considerations.*

(A) When a separation is characterized, the characterization shall be based upon the quality of the member's service, including the reason for separation. The quality of service will be determined in accordance with standards of acceptable personal conduct and performance of duty for military personnel. These standards are found in the UCMJ, directives and regulations issued by the Department of Defense and the Military Departments, and the time-honored customs and traditions of military service. Conduct in the civilian community of a member on active duty or active duty for training that is of a nature that brings discredit on the armed forces or is prejudicial to good order and discipline directly affects the member's quality of service regardless of whether the conduct is subject to UCMJ jurisdiction.

(B) As a general matter, characterization will be based upon a pattern of behavior rather than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident, particularly in cases involving misconduct, may provide the basis for characterization.

(C) Due consideration shall be given to the reason for separation and to the member's age, length of service, grade, and aptitude.

(ii) *Types of characterization.*

(A) *Honorable.* A person who has served in the armed forces for a required or obligated term has rendered an honorable service to the nation, and the member's separation shall be characterized as Honorable. The Honorable characterization is appropriate in other cases when the quality of the member's service generally has met the standards of acceptable conduct and performance of study for military personnel, or is otherwise so meritorious that any other characterization would be clearly inappropriate. In the case of an honorable discharge, an Honorable Discharge Certificate (DD Form 256) will be awarded and a notation will be made on the appropriate copies of the DD Form 214/5 in accordance with 32 CFR 45.

(B) *General (under honorable conditions).* If a member's service has been honest and faithful, a separation under honorable conditions is appropriate. Such a separation shall be characterized as General when significant negative aspects of the member's conduct or performance of duty outweigh positive aspects of the member's military record, with due regard for the member's age, length of service, grade, and aptitude. Such a characterization also may be based upon standards contained in a formal, service-wide evaluation system for rating conduct and performance.

(C) *Under Other Than Honorable Conditions.* This characterization is appropriate in the following circumstances:

(*1*) When the military record reflects a pattern of conduct prejudicial to good order and discipline or of a nature to bring discredit upon the armed forces.

(*2*) When the reason for discharge is based upon one or more acts or omissions that constitute a significant departure from the conduct expected of members of the armed forces. Examples of factors that may be considered include the use of force or violence to produce serious bodily injury or death, abuse of a special position of trust, disregard by a superior of customary superior-subordinate relationships, acts or omissions that endanger the security of the United States or the health and welfare of other members of the armed forces, and deliberate acts or omissions that seriously endanger the health and safety of other persons.

(D) This characterization is authorized only if the member has been afforded the opportunity to request an Administrative Separation Board, except as provided in § 41.6(j) (Separation in Lieu of Trial by Courts-Martial.)

(iii) *Limitations on characterization.* Except as otherwise provided in this paragraph, characterization of separation will be determined solely by the member's military record during the current enlistment or period of service to

which the separation pertains, plus any extensions thereof prescribed by law or regulation or effected with the consent of the member.

(A) Prior service activities, including records or conviction by courts-martial, records of absence without leave, or commission of other offenses for which punishment was not imposed shall not be considered on the issue of characterization. To the extent that such matters are considered on the issue of retention or separation (§ 41.7(a)(2)), the record of proceedings may reflect express direction that such information shall not be considered on the issue of characterization.

(B) Preservice activities may not be considered on the issue of characterization, except in a proceeding concerning a defective enlistment or induction. Evidence of preservice misrepresentations about matters that would have precluded, postponed, or otherwise affected the member's eligibility for enlistment or induction may be considered on the issue of characterization.

(C) A separation may not be characterized as Under Other Than Honorable Conditions if the grounds for such separation are based in whole or in part upon acts or omissions for which the member previously has been tried by court-martial resulting in acquittal or action having the effect thereof, except when such action is based upon a judicial determination not going to the member's guilt or innocence.

(D) Conduct in the civilian community of a member of a Reserve Component who is not on active duty or active duty for training may form the basis for characterization of a separation as Under Other than Honorable Conditions only if such conduct affects directly the performance of military duties. Such conduct may form the basis of a General characterization only if such conduct has an adverse impact on the overall effectiveness of the service, including military morale and efficiency.

(3) *Entry Level Separation.* A separation shall be described as an Entry Level Separation if separation processing is initiated while a member is in entry level status, except if—

(i) A characterization of Under Other Than Honorable Conditions is authorized under the reason for separation (§ 41.6) and is warranted by the circumstances of the case; or

(ii) The Secretary concerned, on a case-by-case basis, determines that characterization is clearly warranted by the presence of unusual circumstances in the case and separation under § 41.6 is by reason of various changes in military status (§ 41.6(a)), Convenience of the Government (§ 41.6(b)), Disability (§ 41.6(c)), Secretarial Plenary Authority (§ 41.6(m)), or an approved reason established by the Military Department (§ 41.6(n)).

With respect to administrative matters that require a determination of characterization, an Entry Level Separation shall be treated as an Honorable separation.

(4) *Void Enlistments or Inductions.* A member shall not receive a discharge, a characterized separation, or an Entry Level Separation if the enlistment or induction is void except when a constructive enlistment arises and such action is required under § 41.6(c)(4)(i). If characterization or an Entry Level Separation is not required, the separation shall be described as an order of release from custody or control of the armed forces.

(i) An enlistment is void in the following circumstances:

(A) An enlistment is void if it was effected without the voluntary consent of a person who has the capacity to understand the significance of enlisting in the armed forces, including enlistment of a person who is intoxicated or insane at the time of enlistment. *See* 10 U.S.C. 802(b).

(B) The enlistment of a person who is under 17 years of age is void. *See* 10 U.S.C. 505.

(C) The enlistment of a person who is under 18 years of age without the written consent of his or her parent or guardian, is void under the circumstances described in § 41.6(d)(1)(i)(B).

(D) The enlistment of a person who is a deserter from another Military Service is void. *See* 10 U.S.C. 504.

(ii) Although an enlistment may be void at its inception, a constructive enlistment shall arise in the case of a person serving with a Military Service who—

(A) Submitted voluntarily to military authority;

(B) Met the mental competency and minimum age qualifications of Sections 504 and 505 of title 10, United States Code, at the time of voluntary submission to military authority;

(C) Received military pay or allowances; and

(D) Performed military duties.

(iii) If an enlistment that is void at its inception is followed by a constructive enlistment within the same term of service, the separation of the member shall be characterized or described under § 41.6 (c)(2) or (c)(3), as appropriate; however, if the enlistment was void by reason of desertion from another Military Service, the member shall be separated by an order of release from the custody and control of the service regardless of any subsequent constructive enlistment. The occurrence of such a constructive enlistment does not preclude the Military Departments, in appropriate cases, from either retaining the member or separating the member under § 41.6(d) on the basis of the circumstances that occasioned the original void enlistment or upon any other basis of separation provided in this Part. *See* 10 U.S.C. 802(c).

(5) *Dropping from the rolls.* A member may be dropped from the rolls of the service when such action is authorized by the military department concerned and a characterization or other description of service is not authorized or warranted.

§ 41.8 Procedures for separation.

(a) *Scope.*

This enclosure provides supplementary procedures which are applicable only when mandated in § 41.6, subject to such limitations or additional requirements as may be set forth in § 41.6 for the specific reason for separation.

(b) *Notification Procedure.*

(1) *Counseling and Rehabilitation.* Separation processing may not be initiated until the member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records except when this requirement is inapplicable under § 41.6.

(2) *Notice.* If a Notification Procedure is initiated under § 41.6, the respondent shall be notified in writing of the matter set forth in this paragraph.

(i) The basis of the proposed separation, including the alleged facts and circumstances upon which the action is based and a reference to the applicable provisions of the Military Department's implementing regulation.

(ii) Whether the proposed separation could result in discharge, release from active duty to a reserve component, transfer from the Selected Reserve to the IRR, or release from custody or control of the armed forces.

(iii) The least favorable characterization or description of separation authorized for the proposed separation.

(iv) The respondent's right to submit statements.

(v) The respondent's right to consult with counsel.

(vi) If the respondent is a noncommissioned officer or has 8 or more years of total active and reserve military service, the right to request an

Administrative Separation Board § 41.8(c).

(vii) The right to waive paragraph (b)(2) (iv), (v), or (vi) of this section, after being afforded a reasonable opportunity to consult with counsel, and that failure to respond shall constitute a waiver of the right.

(3) *Additional Notice Requirements.*

(i) If separation processing is initiated on the basis of more than one reason under § 41.6, the requirements of paragraph (b)(2)(i) of this section apply to all proposed reasons for separation.

(ii) If the respondent is in civil confinement, absent without leave, or in a reserve component not on active duty or upon transfer to the IRR, the relevant notification procedures in paragraph (d), (e), or (f) of this section apply.

(iii) Additional notification requirements are set forth in § 41.6 (b) and (c), when a separation is characterized as General and the member is separated by reason of Convenience of the Government or Disability.

(4) *Response.* The respondent shall be provided a reasonable period of time, but not less than two working days, to act on the notice. The decision of the respondent on each of the rights set forth in paragraph (b)(2)(iv) through (b)(2)(vii) of this section and applicable provisions referenced in paragraph (b)(3) of this section shall be recorded and signed by the respondent and counsel, subject to the following limitations:

(i) If notice by mail is authorized under paragraph (d), (e), or (f) of this section and the respondent fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights and an appropriate notation shall be recorded on a retained copy of the appropriate form.

(ii) If the respondent declines to respond as to the selection of rights, such declination shall constitute a waiver of rights and an appropriate notation will be made on the form provided for respondent's reply. If the respondent indicates that one of more of the rights will be exercised, but declines to sign the appropriate form, the selection of rights will be noted and an appropriate notation as to the failure to sign will be made.

(5) *Separation Authority.*

(i) The Separation Authority for actions initiated under the Notification Procedure shall be a special court-martial convening authority or higher authority. The Military Department concerned also may authorize a commanding officer in grade O–6 or above with a judge advocate or legal advisor available to the command to act as a Separation Authority under such circumstances.

(ii) The action of the Separation Authority shall be recorded and must be supported by a preponderance of the evidence.

(iii) The Separation Authority shall determine whether there is sufficient evidence to verify the allegations set forth in the notification of the basis for separation. If an allegation is not supported by a preponderance of the evidence, it may not be used as a basis for separation.

(iv) If there is a sufficient factual basis for separation, the Separation Authority shall determine whether separation is warranted under the guidance set forth in § 41.7(a). On the basis of that guidance, the Separation Authority shall direct—

(A) Retention;

(B) Separation for a specific reason under § 41.6; or

(C) Suspended separation in accordance with the guidance in§ 41.7(b).

If the Separation Authority directs separation or suspended separation on the basis of more than one reason under § 41.6, the Separation Authority shall designate the most appropriate basis as the primary reason for reporting purposes.

(v) If separation or a suspended separation is directed, the Separation Authority shall assign a characterization or description in accordance with § 41.7(c).

(vi) Except when separation Under Other than Honorable Conditions is directed or the member is separated on the basis of homosexuality or a void enlistment or induction, the Secretary concerned may authorize the Separation Authority or higher authority to make a recommendation or determination as to whether the respondent should be retained in the Ready Reserve as a mobilization asset to fulfill the respondent's total military obligation. This option applies in cases involving separation from active duty or from the Selected Reserve. § 41.8(e) is applicable if such transfer is approved.

(c) *Administrative Board Procedure.*

(1) *Counseling and Rehabilitation.* Separation processing under this section shall not be initiated until the member has been counseled formally concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling or personnel records except when this requirement is inapplicable in § 41.6.

(2) *Notice.* If an Administrative Separation Board is required, the respondent shall be notified in writing of the matters set forth in this paragraph.

(i) The basis of the proposed separation, including the alleged facts and circumstances upon which the action is based and reference to the applicable provisions of the Military Department's implementing regulation.

(ii) Whether the proposed separation could result in discharge, release from active duty to a reserve component, transfer from the Selected Reserve to the IRR, or release from the custody or control of the armed forces.

(iii) The least favorable characterization or description of separation authorized for the proposed separation.

(iv) The respondent's right to request a hearing before an Administrative Separation Board.

(v) The respondent's right to present written statements in lieu of board proceedings.

(vi) The respondent's right to representation either by military counsel appointed by the Separation Authority or by military counsel of the respondent's own choice (if counsel of choice is determined to be reasonably available under regulations of the Secretary concerned) but not both.

(vii) The right to representation by civilian counsel at the respondent's own expense.

(viii) The right to waive the rights in paragraph (c)(2)(iv) through (c)(2)(vii) of this section.

(ix) That failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes a waiver of the rights in paragraph (c)(2)(iv) through (c)(2)(vii) of this section.

(x) Failure to appear without good cause at a hearing constitutes waiver of the right to be present at the hearing.

(3) *Additional Notice Requirements.*

(i) If separation processing is initiated on the basis of more than one reason under § 41.6, the requirements of paragraph (c)(2)(i) of this section apply to all proposed reasons for separation.

(ii) If the respondent is in civil confinement, absent without leave, or in a reserve component not on active duty or upon transfer to the IRR, the relevant notification procedures in paragraph (d), (e), or (f) of this section apply.

(iii) Additional notification requirements are set forth in § 41.6 (b) and (c) when a separation is characterized as General and the member is separated by reason of Convenience of the Government or Disability.

(4) *Response.* The respondent shall be provided a reasonable period of time,

but not less than two working days, to act on the notice. The decision of the respondent on each of the rights set forth in paragraph (c)(2)(iv) through (c)(2)(vii) of this section and applicable provisions referenced in paragraph shall be recorded and signed by the respondent and counsel, subject to the following limitations:

(i) If notice by mail is authorized under paragraph (d), (e), or (f) of this section and the respondent fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights and an appropriate notation shall be recorded on a retained copy of the appropriate form.

(ii) If the respondent declines to respond as to the selection of rights, such declination shall constitute a waiver of rights and an appropriate notation will be made on the form provided for respondent's reply. If the respondent indicates that one or more of the rights will be exercised, but declines to sign the appropriate form, the selection of rights will be noted and an appropriate notation as to the failure to sign will be made.

(5) *Waiver.*

(i) If the right to a hearing before an Administrative Separation Board is waived, the case will be processed under paragraph (b)(5) of this section (Notification Procedure), but the Separation Authority in such cases shall be exercised by an official designated under paragraph (c)(6)(vii) of this section.

(ii) When authorized by the Military Department concerned, a respondent entitled to an Administrative Separation Board may exercise a conditional waiver after a reasonable opportunity to consult with counsel. A conditional waiver is a statement initiated by a respondent waiving the right to a board proceeding contingent upon receiving a characterization or description of separation higher than the least favorable characterization or description authorized for the basis of separation set forth in the notice to the respondent.

(6) *Hearing Procedure.* If a respondent requests a hearing before an Administrative Separation Board, the following procedures are applicable:

(i) *Composition.*

(A) The Separation Authority shall appoint to the Administrative Separation Board at least three experienced commissioned, warrant, or noncommissioned officers. Enlisted personnel appointed to the Board shall be in grade E–7 or above, and shall be senior to the respondent. At least one member of the Board shall be serving in the grade of O–4 or higher, and a majority shall be commissioned or warrant officers. The senior member shall be the President of the Board. The Separation Authority also may appoint to the Board a nonvoting recorder. A nonvoting legal advisor may be appointed to assist the Board if authorized by the Secretary concerned.

(B) If the reapondent is an enlisted member of a Reserve Component or holds an appointment as a Reserve Commissioned or Warrant Officer, a majority of the voting members of the Board shall be Reserve officers, if such officers are reasonably available. If a Reserve majority is not available, the Board shall include at least one Reserve officer as a voting member. Voting members shall be senior to the respondent's reserve grade. *See* 10 U.S.C. 266.

(C) The Separation Authority shall insure that the opportunity to serve on Administrative Separation Boards is given to women and minorities. The mere appointment or failure to appoint a member of such a group to the Board, however, does not provide a basis for challenging the proceeding.

(D) The respondent may challenge a voting member of the Board or the legal advisor, if any, for cause only

(ii) *Presiding Officer.* If appointed, the legal advisor shall preside in all open sessions and shall rule finally on all matters of procedure and evidence. In all other cases, the President shall preside and rule on such matters, but the rulings of the President may be overruled by a majority of the Board.

(iii) *Witnesses.*

(A) The respondent may request the attendance of witnesses in accordance with the implementing instructions of the Military Department concerned.

(B) In accordance with such instructions, the respondent may submit a written request for TDY or invitational travel orders for witnesses. Such a request shall contain—

(*1*) A synopsis of the testimony that the witness is expected to give.

(*2*) An explanation of the relevance of such testimony to the issues of separation or characterization.

(*3*) An explanation as to why written or recorded testimony would not be sufficient to provide for a fair determination.

The separation authority may authorize expenditure of funds for TDY or invitational travel orders if the presiding officer, after consultation with a judge advocate, determines that the testimony of a witness is not cumulative, that it is essential to a fair determination on the issues of separation or characterization, and that written or recorded testimony will not accomplish adequately the same objective, and that the need for live testimony is substantial, material, and necessary for a proper disposition of the case.

(C) If the Separation Authority determines that the personal testimony of a witness is required, the hearing will be postponed or continued if necessary to permit the attendance of the witness.

(D) If a witness requested by the respondent is unavailable because—

(*1*) The presiding officer determines that the personal testimony of the witness is not required:

(*2*) The commanding officer of a military witness determines that military necessity precludes the witness' attendance at the hearing; or

(*3*) A civilian witness declines to attend the hearing.

The hearing shall be continued or postponed to provide the respondent with a reasonable opportunity to obtain a written statement from the witness. § 41.8(c)(6)(iii), above, does not authorize a federal employee to decline to appear as a witness if directed to do so in accordance with applicable procedures of the employing agency.

(iv) *Record of Proceedings.* The record of the proceedings shall be kept in summarized form unless a verbatim record is required by the Secretary concerned. In all cases, the findings and recommendations of the Board shall be in verbatim form.

(v) *Presentation of Evidence.*

(A) The rules of evidence for courts-martial and other judicial proceedings are not applicable before an Administrative Separation Board. Reasonable restrictions shall be observed, however, concerning relevancy and competency of evidence.

(B) The respondent may testify in his or her own behalf, subject to the provisions of Article 31(a), UCMJ.

(C) At any time during the proceedings, the respondent or counsel may submit written or recorded matter for consideration by the Board.

(D) The respondent or counsel may question any witness who appears before the Board.

(vi) *Findings and Recommendations.*

(A) The Board shall determine its findings and recommendations in closed session. Only voting members of the board shall be present.

(B) The Board shall determine whether each allegation set forth in the notice of proposed separation is supported by a preponderance of the evidence.

(C) The Board shall then determine under the guidance in § 41.7(a) whether the findings warrant separation with

respect to the reason for Separation set forth in the Notice. If more than one reason was contained in the Notice, there shall be a separate determination for each reason.

(D) The Board shall make recommendations on the following:

(*1*) *Retention or Separation.* The Board shall recommend one of the following actions.

(*i*) Retention.

(*ii*) Separation.

(*iii*) Separation, but with the separation suspended in accordance with § 41.7(b). The recommendation of the Board as to suspension is not binding on the Separation Authority.

(*2*) *Characterization or Description of Service.* If separation or suspended separation is recommended, the Board shall recommend a characterization or description of separation as authorized in § 41.6 (Reason for Separation) in accordance with the guidance in § 41.7(c). The Board's recommendation must be supported by a preponderance of the evidence.

(*3*) *Transfer to the Ready Reserve.* Except when the Board has recommended separation on the basis of homosexuality or otherwise Under Other than Honorable Conditions, the Secretary concerned may authorize the Board to make a recommendation as to whether the respondent should be retained in the Ready Reserve as a mobilization asset to fulfill the respondent's total military obligation. The option applies to cases involving separation from active duty or from the Selected Reserve. § 41.7(e) is applicable if the transfer is approved.

(vii) *Separation Authority.*

(A) The Separation Authority for actions initiated under the Administrative Board Procedure shall be a general court-martial convening authority or higher authority. The Military Department concerned also may authorize a commanding officer in grade 0–7 or above with a judge advocate or legal advisor available to his command to act as a separation authority in specified circumstances. When the case has been initiated under the Notification Procedure and the hearing is a result of a request under paragraph (b)(2)(vi) of this section, the Separation Authority shall be as designated in paragraph (b)(5) of this section.

(B) The record of the proceedings will be reviewed by a judge advocate or civilian attorney employed by the Military Department prior to action by the Separation Authority.

(C) The respondent will be provided with a copy of the Board's statement of facts and recommendations.

(D) The Separation Authority shall take action in accordance with this subparagraph, the requirements of § 41.6 with respect to the reason for separation, and the guidance in § 41.7 on separation and characterization.

(*1*) If the Separation Authority approves the recommendations of the Board in the issue of separation, this constitutes approval of the Board's findings and determinations under paragraph (c)(6)(vi) of this section unless the Separation Authority expressly modifies such findings or determinations.

(*2*) If the Board recommends retention, the Separation Authority may—

(*i*) Approve the recommendation.

(*ii*) Forward the matter to the Secretary concerned with a recommendation for separation based upon the circumstances of the case. In such a case, the Secretary may direct retention of separation with an Honorable or General characterization or an Entry Level Separation.

(*3*) If the Board recommends separation, the Separation Authority may—

(*i*) Approve the Board's recommendation;

(*ii*) Approve the Board's recommendations, but modify the recommendations by one or more of the following actions when appropriate:

(*A*) Approve the separation but suspend execution as provided in § 41.7(b).

(*B*) Change the characterization or description of separation to a more favorable characterization or description.

(*C*) Change the Board's recommendation, if any, concerning transfer to the Individual Ready Reserve.

(*iii*) Disapprove the Board's recommendation retain the respondent.

(*4*) If the Separation Authority approves the Board's findings and determinations in whole or in part with respect to more than one reason under § 41.6, the Separation Authority shall designate the most appropriate basis as the primary reason for reporting purposes.

(*5*) If the Separation Authority (*i*) finds legal prejudice to a substantial right of the respondent or (*ii*) determines that the findings of the Board have been obtained by fraud or collusion, the case may be referred to a new board. No member of the new board shall have served on a prior board that considered the case. The Separation Authority may not approve findings and recommendations less favorable to the respondent than those rendered by the previous Board unless the Separation Authority finds that fraud or collusion in the previous Board is attributable to the respondent or an individual acting on the respondent's behalf.

(E) *Limitation as to former proceedings.* Conduct that previously has been the subject of an Administrative Separation Board proceeding that resulted in retention may not be presented to a later Separation Board unless—

(1) There is new or newly discovered evidence forming the basis for the proceeding; or

(2) The conduct is the subject of a rehearing ordered under paragraph (c)(6)(vii)(D)(*3*), of this section, on the basis of fraud or collusion.

(d) *Additional provisions concerning members confined by civil authorities.*

(1) If proceedings under § 41.8 have been initiated against a respondent confined by civil authorities, the case may be processed in the absence of the respondent. § 41.8(c)(6)(v) is not applicable except insofar as such rights can be exercised by counsel on behalf of the respondent.

(2) The following requirements apply:

(i) The notice shall contain the matter set forth in paragraph (b)(2) of this section (Notice in Notification Procedure) or paragraph (c)(2) of this section (Notice in Administrative Separation Board Procedure), as appropriate. The notice shall be delivered personally to the respondent or sent by registered mail or certified mail, return receipt requested (or by an equivalent form of notice if such service is not available for delivery by U.S. Mail at an address outside the United States.

(ii) If delivered personally, receipt shall be acknowledged in writing by the respondent. If the respondent does not acknowledge receipt, the notice shall be sent by mail as provided in paragraph (d)(2)(i) of this section.

(iii) The notice shall state that the action has been suspended until a specific date (not less than 30 days from the date of delivery) in order to give the respondent the opportunity to exercise the rights set forth in the notice. If respondent does not reply by such date, the separation authority shall take appropriate action under paragraph (b)(5) of this section.

(iv) The name and address of appointed military counsel for consultation shall be specified in the notice.

(v) If the case involves entitlement to an Administrative Separation Board, the respondent shall be notified that the board will proceed in the respondent's absence and that the case may be

presented on respondent's behalf by counsel for the respondent.

(e) *Additional requirements for certain members of Reserve Components.*

(1) *Members of reserve components not on active duty.*

(i) If proceedings under § 41.8 have been initiated against a member of a Reserve Component not on active duty, the case may be processed in the absence of the member—

(A) At the request of the member;

(B) If the member does not respond to the notice of proceedings on or before the suspense date provided therein; or

(C) If the member fails to appear at a hearing as provided in paragraph (c)(2)(x) of this section.

(ii) The notice shall contain the matter set forth in paragraph (b)(2) or (c)(2), of this section as appropriate.

(iii) If the action involves a transfer from active duty or the Selected Reserve to the IRR under circumstances in which the procedures in § 41.8 are applicable, the member will be notified that the character of separation upon transfer to the IRR also will constitute the character of separation upon discharge at the completion of the military service obligation unless specified conditions established by the military Department concerned are met.

(2) *Transfer to the IRR.* Upon transfer to the IRR, the member will be notified of the following:

(i) The character of separation upon transfer from active duty or the Selected Reserve to the IRR, and that the character of discharge upon completion of the military service obligation will be the same unless specified conditions established by the military department concerned are met.

(ii) The date upon which the military service obligation will expire.

(iii) The date by which the member must submit evidence of satisfactory completion of the specified conditions.

(3) If the member submits such evidence but the military department proposes to issue a General Discharge, the Notification Procedure shall be used except that counseling and rehabilitation requirements are not applicable. An Administrative Board Proceeding is not required at this point not withstanding the member's rank or years of service.

(4) If the member does not submit such information on or before the date specified in the notice, no further proceedings are required. The character of discharge at the completion of the military service obligation shall be the same as the character of separation upon transfer from the Selected Reserve to the IRR.

(5) The following requirements apply to the notices required by § 41.8(e) (1) and (2).

(i) Reasonable effort should be made to furnish copies of the notice to the member through personal contact by a representative of the command. In such a case, a written acknowledgment of the notice shall be obtained.

(ii) If the member cannot be contacted or refuses to acknowledge receipt of the notice, the notice shall be sent by registered or certified mail, return receipt requested, (or by an equivalent form of Notice if such service by U.S. Mail is not available for delivery at an address outside the United States) to the most recent address furnished by the member as an address for receipt or forwarding of official mail. The individual who mails the notification shall prepare a Sworn Affidavit of Service by Mail (32 CFR 100), which will be inserted in the member's personnel file together with PS Form 3800.

(f) *Additional requirements for members beyond military control by reason of unauthorized absence.*

(1) *Determination of applicability.* If the general court-martial convening authority or higher authority determines that separation is otherwise appropriate under this Part a member may be separated without return to military control in one or more of the following circumstances:

(i) Absence without authority after receiving notice of initiation of separation processing.

(ii) When prosecution of a member who is absent without authority appears to be barred by the statute of limitations, Article 43.

(iii) When a member who is an alien is absent without leave and appears to have gone to a foreign country where the United States has no authority to apprehend the member under a treaty or other agreement.

(2) *Notice.* Prior to execution of the separation under paragraph (f)(1) (ii) or (iii) of this section, the member will be notified of the imminent action by registered mail or certified mail, return receipt requested, (or by an equivalent form of Notice if such service by U.S. Mail is not available for delivery at an address outside the United States) to the member's last known address or to the next of kin under regulations prescribed by the Military Department concerned. The notice shall contain the matter set forth in § 41.7 (b)(2) or (c)(2), as appropriate, and shall specify that the action has been suspended until a specific date (not less than 30 days from the date of mailing) in order to give the respondent the opportunity to return to military control. If the respondent does not return to military control by such date, the separation authority shall take appropriate action under paragraph (b)(5) of this section.

(3) *Members of Reserve Components.* The provisions of 10 U.S.C. 1163 apply to separation of members of Reserve Components.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

June 11, 1981.

[FR Doc. 81-17862 Filed 6-16-81; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1847-6]

Approval and Promulgation of Implementation Plans; South Carolina; Proposed Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposes approval action on the State Implementation Plan (SIP) revisions which the South Carolina Department of Health and Environmental Control submitted pursuant to requirements of Part D, Title I of the Clean Air Act (CAA), as amended in 1977, with regard to nonattainment areas. The revisions proposed today were submitted to EPA, Region IV to correct the deficiencies noted in the **Federal Register** of July 13, 1979 (44 FR 40901). Amendments and information were submitted on April 4, June 13, July 6, August 22, 1979 and September 10, 1980. They address deficiencies in the plan's total suspended particulate (TSP) control strategy for Charleston and Georgetown, the ozone related volatile organic compound (VOC) regulations and the offset provisions. EPA has found that the deficiencies except the one related to the Pittsburg-Meeting Street in Charleston (TSP) nonattainment area, are adequately corrected by the amendments and today proposes to approve them. The final rule conditionally approving South Carolina's Implementation plans was published in the **Federal Register** of Tuesday, January 29, 1980 (45 FR 6572).

The State's original SIP submittal was discussed in detail in the July 13, 1979, **Federal Register**; this detail is not repeated here. The areas affected by the proposed changes are discussed in

detail in the Supplemental Information section of this proposal.

DATE: In order for comments to be considered, they must be submitted on or before July 17, 1981.

ADDRESSES: Written comments should be addressed to Ray Gregory of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Mr. Ray Gregory, Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: Implementation plan revisions required under Part D, Title I of the Clean Air Act were developed by South Carolina for all nonattainment areas in the State. The revisions were submitted for EPA's approval on December 22, 1978. South Carolina made additional submittals on April 4, June 13, July 6, August 14, August 22, 1979 and September 10, 1980.

Conditional approval of the State's December 22, 1978 submittal was proposed in the July 13, 1979 **Federal Register** (44 FR 40901) and finalized in the January 29, 1980, **Federal Register** (45 FR 6572); the changes to the revisions, proposed for approval today, correct the deficiencies in the original submittal as noted below. These were noted in detail in the proposed notice, and are listed below, accompanied by the proposed corrections and/or necessary discussion (see General Discussion below). Today's action proposes approval of South Carolina's nonattainment SIP revisions except for the Pittsburg-Meeting Street TSP nonattainment area in Charleston.

General discussion. The following is a list of deficiencies in the original South Carolina 1979 SIP revision submittal as noted in the July 13, 1979, **Federal Register** (44 FR 40901), accompanied by an explanation of the correction and additional comments as applicable.

A. Deficiency—The legal authority for enforcing the reasonably available control technology (RACT) schedule for industrial fugitive emissions and certain point source emissions was not included in the SIP. To ensure the application of resonably available control technology (RACT) to these emissions, the RACT schedule should include emissions limitations included as permit conditions, or other enforceable conditions that require RACT.

Response—The State made additional submittals on June 13 and August 22, 1979. The June 13 submittal contains a RACT schedule for the Charleston industry (Macalloy Corporation). The schedule which follows does not remove the deficiency of specifying RACT. No action is being taken concerning the Pittsburg-Meeting Street TSP nonattainment area at this time:

Table IV-17.—*Schedule for Reducing Emissions From Operations at Macalloy Corporation*

	Not later than—
Crushing and screening:	
Submit plan	Feb. 28, 1979.
Submit permit application	Aug. 1, 1979.
Let material contracts	Dec. 31, 1979.
Start construction	Mar. 1, 1980.
Complete construction	Oct. 31, 1980.
Final compliance (RACT in place).	Dec. 31, 1980.
Bed stripping:	
Begin investigation	Feb. 1, 1979.
Evaluate process	June 13, 1979.
Submit permit application	Nov. 1, 1979.
Convert plant to ring casting	Dec. 31, 1979.
Furnace startup and shutdowns:	
Engineering	May 1, 1980.
Submit permit application	Aug. 30, 1980.
Order equipment	Sept. 30, 1980.
Install and start-up	Apr. 30, 1981.
Final compliance (RACT in place).	June 30, 1981.

B. Deficiency—The SIP did not clearly differentiate between allowable and actual emissions in the control strategy development and demonstration of attainment for TSP.

Response—The State's June 13 submittal corrects this deficiency, indicating that the maximum *allowable* emissions were used in the 1982 attainment demonstration and that the *actual* emissions were used in the modeling for the 1977 nonattainment analysis.

C. Deficiency—A special provision exempting soot blowing from the State's Regulation 62.5, Standard No. 1, Section I was not approvable. To correct this deficiency, it was necessary that violations of emissions limits due to soot blowing be recorded as violations, and that industries be required to maintain a log of such activities and report same to the State.

Response—The State's September 10, 1980 submittal deletes the exemption for soot blowing. This deletion, in essence, makes this portion of the SIP approval.

D. Deficiency—In the TSP demonstration of attainment for Charleston and Georgetown, the modeling should be expanded in order to better represent actual air quality in the nonattainment areas.

Response—The modeling in the June 13, 1979 submittal is acceptable; it is an expansion of the data presented in the December 22, 1978 submittal.

E. Deficiency—In the State's volatile organic compound regulations (Section II, Part B), the minimum tank capacity for applicability of the regulation to petroleum liquid storage should be 40,000 gallons or justifications made for using a higher limit (The State used 42,000 gallons).

Response—This deficiency is corrected in the June 13, 1979 submittal. The threshold tank capacity for petroleum liquid storage is reduced to 40,000 gallons (R-61-62.5, Standardd No., 5, Section II, Part B).

F. Deficiency—The definition of "volatile organic compound" did not ensure that where there is an issue as to what substances come under control, the test procedures would supersede the definition in the State's regulation and that ASTM test method D2369-73 (or its analog ASTM D1644-59) would be used.

Response—The State's June 13, 1979 submittal corrects this deficiency. (R-61-62.5, Standard No. 5, Section I, Part A)

G. Deficiency—In the State's Regulations 62.1 and 62.6, the State was requested to clarify the difference between fugitive dust and fugitive emissions, defining both clearly and in such a manner that the regulations could be readily interpreted and enforced.

Response—The State's July 6, 1979 submittal is sufficient to correct State Regulation 62.1. However, the enforcement and interpretation of State Regulation 62.6 is not enhanced by the July 6 submittal.

Moreover, the submittals of August 14 and August 22 do not correct the enforceability problems of State Regulation 62.6. The State has indicated that this regulation will be revised and submitted as a protion of the secondary standard attainment plan. EPA is proposing no action concerning South Carolina Regulation 62.6 at this time since it is not an essential part of the Part D revisions. EPA is today proposing approval of the State's Regulation 62.1.

H. Deficiency—State Regulation 62.5, Standard No., 1, Section I, could not be approved as written; less stringent emission limitations cannot be allowed prior to review and approval by EPA.

Response—This deficiency was corrected in the State's July 6 submittal. There the State added a paragraph (4) to Part F as follows:

(4) "Exceptions granted under this part are not effective until submitted to and approved by the Administrator of the United States Environmental Protection Agency as a revision of the State Implementation Plan pursuant to Section 110 (a)(3)(A) of the Clean Air Act."

I. Deficiency—The proposal notice of July 13, 1979 indicated that the State's definition of lowest achievable emission rate (LAER) was not approvable.

Response—The State's June 13, 1979 submittal (App. B, I, B, 7) corrects this deficiency by presenting an acceptable definition of LAER.

J. Deficiency—The earlier proposal notice also stated that the State must submit to EPA an analysis of the economic, energy and social effects of the revisions.

Response—The requested information was furnished in the State's June 13, 1979, submittal (Chapter 11).

K. Deficiency—The State's initial submittal did not contain the public comments received, if any, on the foregoing analysis.

Response—This information was furnished under separate cover as an attachment to the August 14, 1979, submittal.

Action. EPA has determined that the South Carolina 1979 plan revisions under Part D now satisfy the requirements of the 1977 Clean Air Act Amendments and the Agency's implementing guidelines for all areas except the Pittsburg-Meeting Street TSP nonattainment area in Charleston. EPA proposes today to approve the above plan revisions submitted under Part D for the following nonattainment areas:

Total Suspended Particulate Matter

A. That portion of Charleston County within the section of North Charleston just South of the U.S. Army Depot (secondary standard).

B. That portion of Georgetown County within the southern section of Georgetown (primary standard).

Photochemical Oxidants

A. Charleston Area—Charleston and Berkeley Counties.

B. Columbia Area Richland and Lexington Counties.

C. York County.

The public is invited to participate in this rulemaking by submitting written comments on the proposed revisions.

A thirty-day comment period is being used to expedite publication of final action on this SIP revision. Under Section 172 of the CAA, the nonattainment portions of the SIP were to have been approved by July 1, 1979. Moreover, the revision was discussed in detail in the July 13, 1979, **Federal Register** (44 FR 40901), and the proposed changes to the revision are not so complex as to require a longer comment period.

After considering all relevant comments received together with all other information available to him, the Administrator will take final action on these corrective changes to South Carolina's 1979 SIP revisions for nonattainment areas.

Pursuant to the provisions of 5 U.S.C. § 605(b) the Administrator has certified that SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. 46 Fed. Reg. 8709 (January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval under Sections 110 and 172 within the terms of the January 27 certification. This action only approves State actions. It imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it merely ratifies State actions and imposes no new burden on sources.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

(Section 110 and 172 of the CAA [42 U.S.C. 7410 and 7502])

Dated: May 1, 1981.

John A. Little,

Acting Regional Administrator.

[FR Doc. 81-17966 Filed 6-16-81; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 86

[AMS-FRL-1853-8]

Studies of 1984 Heavy-Duty Engine and 1985 Light-Duty Diesel Vehicle Requirements and Emissions Performance and Defect Warranties

AGENCY: Environmental Protection Agency.

ACTION: Request for information.

SUMMARY: This action invites submission of information relative to four studies being undertaken by EPA as part of the President's program to provide regulatory relief to the U.S. auto industry. In order to ensure that these particular studies accurately reflect the most current information, we are requesting interested parties to submit any new data or information not considered during the subject rulemaking proceedings, as well as any relevant comments on the subjects listed below.

DATES: Information pertinent to the following EPA studies should be submitted by the dates indicated:

(1) The technological feasibility of the 1985 Light-Duty Diesel Particulate standard (October 1, 1981).

(2) Whether the 1984 heavy-duty engine requirements, taking into account the reduction in standards to be proposed in September 1981, should be further revised based on the results of manufacturer's current transient test programs (November 1, 1981).

(3) Whether the full life useful life requirement for heavy-duty engines and light-duty trucks should be reduced to a half-life requirement or otherwise modified (December 1, 1981).

(4) Whether EPA should take administrative action or make legislative proposals to minimize any potential adverse impacts on any affected parties from the "design and defect" and performance warranties (July 30, 1981).

ADDRESSES: All information supplied in response to this request should be submitted to Public Docket No. A-81-20 located at the Environmental Protection Agency, Central Docket Section, West Tower Lobby Gallery I, 401 M Street, SW., Washington, D.C. 20460. It is also requested that duplicates be submitted to the persons listed below as contacts for further information.

Persons desiring additional background information concerning the relevant rulemakings and the issues involved in the studies can consult the appropriate public dockets. Docket No. OMSAPC-78-3 deals with the light-duty diesel particulate standards, while Docket Nos. OMSAPC-78-4 and OMSAPC-79-2 relate to the heavy-duty engine and light-duty truck requirements. Docket Nos. EN-79-6 and EN-79-8 relate to the performance warranty.

The dockets are open to the public between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

Diesel Particulate and Heavy-Duty Engines:

Mr. John F. Anderson, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, (313) 668-4496.
Warranties:
Mr. David Feldman, U.S. Environmental Protection Agency, Field Operations and Support Division, 401 M Street, SW., Washington, D.C. 20460, (202) 472-9350.

SUPPLEMENTARY INFORMATION: On April 6, 1981, Vice President Bush announced the President's program to aid the U.S. auto industry. The contents of the program are set out in "Actions to Help the U.S. Auto Industry" (April 6, 1981), which can be found in Public Docket No. A-81-20 at the address listed above. The relief program was developed in view of the problems of depressed sales, record losses, and severe unemployment now affecting the industry. As part of that program, EPA committed to undertake immediately 18 actions to provide significant savings to the industry with little or no environmental effect. EPA published an announcement on these actions on April 13, 1981. 46 FR 21628. EPA also committed to perform studies and reviews of 13 issues that could lead to further changes in its regulations or in the Clean Air Act.

This request for comments and information on four of the thirteen issues being studied by EPA is designed to permit EPA to base its reviews on the latest available information. As discussed further below, EPA promulgated the subject regulations on the basis of information that showed the requirements to be cost-effective and achievable within the remaining leadtime. For both the 1985 diesel particulate and 1984 heavy-duty engine regulations, regulatory modifications designed to reduce costs of complying with the regulations will be proposed in September 1981. At this time, EPA is not aware of any information to indicate that further revision of the regulations is necessary; however, reviewing the most recent information available on manufacturers' efforts to comply with these regulations may show that further changes are necessary to refine the regulations or to retain their technological feasibility and cost-effectiveness. In the case of the warranty regulations, there may be information available at this time to show that modification of the current requirements would reduce the costs of compliance, or otherwise address concerns of respective interested parties.

The dates specified for submission of information on these issues are intended to allow interested parties maximum opportunity to gather and critique the latest available information. However, we encourage earliest possible submission of data or information which may indicate that timely amendments of the existing regulations is necessary.

Other items that EPA has committed to review will not be dealt with in this notice, and may possibly be the subject of other FR notices to be published in the future.

Specific areas on which EPA would like comments to be submitted are identified below; however, EPA will not limit its consideration of comments to the specific items listed, and submission of any information that would be useful in conducting the studies is welcome.

1. Study of the 1985 Light-Duty Diesel Particulate Standards.

On March 5, 1980, EPA published regulations governing emissions of particulate matter from diesel-powered light-duty vehicles and light-duty trucks (45 FR 14496). These regulations set 1982 standards of 0.6 gpm for both vehicle categories and 1985 standards of 0.2 gpm for diesel light-duty vehicles and 0.26 gpm for diesel light-duty trucks. The 1985 standards were based upon an analysis of the best technology believed to be available for use by that time. Specifically, EPA projected that trap oxidizers, and aftertreatment technology, could be successfully developed for 1985 model year application and the final standards were developed from that projection. EPA acknowledged the technology forcing nature of those standards at the time of promulgation and their dependence upon the successful development of trap oxidizers for light-duty diesels, pointing out that the standards would be revised if it appeared that manufacturers were not making the progress that EPA had predicted. In upholding the standards on judicial review, the U.S. Court of Appeals for the District of Columbia Circuit recently agreed with EPA's view that there is sufficient time remaining to permit modification of the standards if the expected pace of development does not occur. *NRDC v. EPA*, No. 80-1312 (D.C. Cir. April 22, 1981).

This study will reexamine the technological feasibility of the final particulate standards for light-duty diesel vehicles and light-duty diesel trucks by updating the earlier feasibility analysis with information on progress made by both vehicle manufacturers and independent suppliers in the development of trap-oxidizer technology. EPA expects to complete this review before the time when major capital investments would have to be made by the industry to comply with the standards.

The study will be conducted in light of the April 16, 1981, announcement that EPA will propose by September 1981 diesel particulate emission averaging schemes to replace the individual-vehicle standards now in place for 1985. Averaging will provide flexibility to the diesel manufacturers in allowing them to comply with the 1985 standards by allocating particulate control technologies among their diesel models in the most cost-effective manner.

In connection with this study, EPA requests informaton on the following specific areas:

a. What filter materials and designs have been evaluated thus far, and what are the advantages and disadvantages of each?

b. What are the particulate collection efficiencies and backpressure levels associated with the various trap materials, both at zero-mile levels and at various levels of mileage accumulation (without external regeneration)?

c. What durability levels (i.e., mileage) have been achieved with each of the various trap materials, with either external or on-board regeneration?

d. What exhaust gas temperatures are required for regeneration of the various trap designs? How do these temperatures compare to the exhaust temperatures of the diesel vehicles for which the trap-oxidizers are being designed?

e. How closely do the trap collection efficiencies and backpressure levels return to zero-mile levels after one regeneration, several regenerations, and hundreds of regenerations?

f. How far can the vehicle be driven between regenerations? Is there a critical range of loading such that the trap must undergo regeneration in that range or result in trap deterioration or destruction? If so, are there control devices or other ways to bring about regeneration within that narrow range?

g. What methods have been evaluated for the initiation and control of on-board trap-oxidizer regeneration? What are the advantages and disadvantages of each of the control systems?

h. What are the highest temperatures reached during trap regeneration? How long does regeneration take? Is driveability affected when regeneration occurs?

i. What parameters have been of most importance in determining the optimum frequency of on-board regeneration?

j. Does the trap-oxidizer have any effect on fuel consumption?

k. What are the HC, CO, NOx, and particulate emission profiles during trap regeneration?

l. What are the measured sulfate levels for the various trap designs?

m. Does the trap remove or eliminate other emissions such as CO and organics? If organics are removed, which classes of organics are removed or eliminated? Does the location of the trap in the exhaust system affect the removal/elimination of the organics or other emissions?

n. Have any bioassay tests been performed on particulate emissions collected during trap operation? Does the trap have any effect on measured biological activity?

o. Have the optimum trap volumes been determined for the vehicles for which the trap-oxidizers are being designed?

p. Where in the exhaust system will trap-oxidizers most likely be placed?

q. Do you foresee any safety problems with trap-oxidizer operation?

r. What is your current overall evaluation of the trap-oxidizer, and what, if any, technical improvements are still necessary?

s. What is your best estimate of the additional time necessary, if any, to optimize a trap-oxidizer design and when could it be integrated into vehicle production?

t. What is your best estimate of the cost of the trap-oxidizer?

u. Have you done any work in the development of control techniques other than trap-oxidizers?

2. Study of the 1984 Heavy-Duty Truck Requirements

Regulations for 1984 and later model year heavy-duty engine emissions of HC and CO were promulgated on January 21, 1981 (45 FR 4136). These regulations implemented a broad range of new provisions for heavy-duty engines. One of the key provisions of the regulations was EPA's adoption of a transient engine test procedure to replace the current steady-state test as being more representative of actual truck use.

Since heavy-duty engine manufacturers currently are conducting transient test programs, this study will survey manufacturers' progress to date in developing the transient testing capability needed to meet the 1984 requirements for implementation of the new test procedure. The results of this survey will be used to evaluate whether there is any need to revise those requirements.

Three other issues critical to the manufacturers—the level of the standards, Selective Enforcement Auditing (SEA) requirements, and the Acceptable Quality Level applied in SEA testing are to be proposed for modification in September 1981. (46 FR 21628).

Since these revisions are designed to reduce the testing and compliance burdens of the regulations, EPA will assess the need for further revision in light of these planned modifications.

The particular areas in which EPA requests information are as follows:

a. Please identify your needs for transient testing facilities for 1984–85. These needs should be based upon EPA's announced intention to delay implementation of Selective Enforcement Auditing for two years. Include an identification of the number of engine families you plan to certify.

b. Please describe the status of your transient facilities. Identify how many cells you now have and when they became operational plus how many are currently under construction and expected completion dates for those. Describe the equipment complement of your test cells.

c. Please describe any difficulties you are experiencing in developing your testing capabilities. Are you having problems locating vendors to supply necessary equipment? What are delivery times associated with key equipment items? Have economic conditions led you to either delay or cancel purchases of the necessary facilities and equipment? What is your assessment of remaining leadtime for the 1984–85 model years?

d. Please describe the economic impact you are experiencing in developing transient test capability. Itemize the cost of items in your test facilities. Have all outstanding equipment items been purchased and what would be the impact of a 1- or 2-year delay in the required implementation date? How are you financing the required investments and what do you consider to be your overall cost of capital? What effect, if any, have the transient test costs had on your future product plans for the heavy-duty market? Please provide a detailed calculation of cost impact on a per-engine basis.

e. Please provide any information you have on transient versus steady-state emissions for regulated pollutants. Have you attempted to establish a relationship on either a family-by-family basis or a product line basis? Please provide any data you have developed.

f. For diesel engine manufacturers, have you done, or are you doing, work to develop transient test capability on eddy-current dynamometers? Please describe your effort and any results.

g. Have you identified any problems with the transient test itself, such as problems with repeatability of test results? Please submit supporting data.

h. Are these specific modifications that could be made to the test to make it more representative of real world conditions and manner of use?

3. Full Life Useful Life for Heavy-Duty Engines and Light-Duty Trucks.

The regulations adopted for 1984 and later heavy-duty engines and light-duty trucks included provisions for vehicles to meet emission standards over their full useful life rather than only the first 50,000 miles as currently is the case. The full useful life was defined in those regulations as the average period of use up to engine retirement or rebuild, as determined by the manufacturer.

Although EPA expects that the actions it will propose to take in September 1981 will reduce the stringency of the full useful life requirement, this study will review the issues related to adoption of this requirement and will examine any difficulties being encountered by manufacturers in preparing to implement the program.

EPA invites submission of information in the following areas:

a. Please describe the approach you are taking to establish the average useful lives for your engine families. Identify any problems which you have encountered to date.

b. Are you experiencing any problems in determining an individual engine's useful life according to the mechanical criteria of 40 CFR 86.084–21(b)(4)(C)?

c. Please identify any specific disadvantages from your viewpoint of manufacturer-determined useful life versus a fixed level set by EPA and applicable to all manufacturers. What is your assessment of the marketing impact of varying useful life definitions between engines or manufacturers?

d. What work have you done in assessing the high mileage durability of emission-related components? Are there any reasons why more durable components cannot be produced where necessary?

e. Do you have data relating to anticipated warranty claims at high mileage? How does the cost of such claims relate to the cost of developing more durable components?

f. Please itemize the cost impact of the full useful life. Analyze the net cost to the purchaser considering such aspects as the increased first price component costs versus operating cost savings through reduced maintenance.

g. If you believe that the full useful life definition is inappropriate, please

suggest alternative useful life definitions and submit for each alternative the relative costs and benefits, including the overall emissions benefits, associated with each.

4. Emission Control System Warranties

Section 207 of the Clean Air Act requires vehicle manufacturers to provide two emission warranties with each new motor vehicle—the section 207(a) emission design and defect warranty and the section 207(b) emission performance warranty.

The defect warranty has been provided with all new vehicles since the beginning of the 1972 model year. The Act required no EPA regulations to implement the warranty and to date EPA has not promulgated any such regulations. Basically, as set out in the Act, the defect warranty requires each new vehicle to be (1) designed, built, and equipped so as to conform at the time of sale with applicable emission regulations and, (2) free from defects in materials and workmanship which cause such vehicle to exceed emission standards.

The performance warranty provisions required regulations for implementation. The regulations were promulgated on May 22, 1980 (45 FR 34829) for 1981 and later model years (45 FR 34829). This warranty is designed to protect vehicle owners who have properly maintained and used their vehicles from certain repair costs associated with an inspection and maintenance test failure. This warranty covers all emission related components for the initial 24 months or 24,000 miles (whichever first occurs), of a vehicles' useful life. For the remainder of the vehicle's useful life the warranty covers only devices installed in or on a vehicle for the sole or primary purpose of controlling vehicle emissions. EPA published with the regulations an advisory list of parts meeting this description on May 22, 1980.

The Agency has committed to studying these two warranties to determine if any administrative action should be taken to modify the programs in a manner that would reduce the burden on industry while still carrying out the clean air and consumer protection objectives they were meant to provide.

EPA also is interested in receiving comments on possible amendments to section 207 of the Clean Air Act; however, since the EPA Administrator has committed to provide legislative recommendations to Congress by June 30, 1981, such comments probably cannot be considered for the purpose of formulating legislative recommendations unless they are submitted immediately. Of course, the Agency will consider all comments for the general purpose of refashioning the warranty program to the extent possible to achieve Congress' clean air goals with minimal economic disruption.

EPA invites submission of information on the following subjects:

a. How much has the existence of the section 207(a) design and defect warranty added to the retail price of new vehicles?

b. In what manner could the section 207(a) design and defect warranty be modified to lessen the cost of compliance to vehicle manufacturers while still carrying out the Congressional objectives surrounding the warranty? Please distinguish between actions that could be taken administratively and those requiring Congressional action.

c. What cost savings would vehicle manufacturers receive if the section 207(a) design and defect warranty were limited to the same parts covered under the 207(b) performance warranty?

d. How has the section 207(a) design and defect warranty impacted the automotive aftermarket between 1972 to the present? Please include any available data which demonstrates that the warranty has altered the competitive position of franchised dealers and independent repair facilities.

e. Should independent repair facilities be allowed to perform either section 207(a) design and defect warranty repairs or section 207(b) emission performance warranty repairs?

f. How much of the price of 1981 and 1982 model vehicles is attributable to the 207(b) performance warranty? How was this amount arrived at?

g. Does EPA's advisory list of parts likely to be covered by 207(b) warranty for the full useful life of a vehicle (published in the **Federal Register** on May 22, 1980) contain any parts which you believe should not be covered, or omit any that you believe should be included? If so, please state which parts have been improperly included or excluded and explain why.

h. What further steps can EPA take to minimize the cost of the section 207(b) emission performance warranty while still carrying out the basic purpose for the warranty? For example, how could the scope of the warranty be limited to minimize costs borne by the manufacturer while protecting consumers from costs not related to improper maintenance or use? Please distinguish between actions that could be taken administratively and those requiring Congressional action.

EPA will publish an announcement of completion and availability of the studies in the **Federl Register.** Since all information submitted during the three subject rulemakings has been considered by the Agency, and remains in the appropriate public docket, persons submitting information in response to this notice should avoid resubmitting information that has already been submitted and made part of the rulemaking record. In addition, since EPA wishes to base its studies on publicly available information, all persons should avoid submitting confidential information wherever possible. EPA will consider information claimed to be confidential, however, and will not disclose such information outside of the procedures set forth in 40 CFR Part 2.

Dated: June 10, 1981.
Approved:

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 81-18015 Filed 6-16-81; 8:45 am]
BILLING CODE 6560-26-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6079]

National Flood Insurance Program; 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 nation. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 755–5585, Federal Emergency Mangement Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives

notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, 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 elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They 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. These proposed 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.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevation prescribes how high to build in the floodplain and does not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Mohave County (unincorporated areas)	*North Mohave Valley Area:*		
		Highland-Williams Wash	Intersection of Oak Avenue and Locust Boulevard	#2
		Highland-Green Wash	Intersection of La Puerta Road and El Camino Road	#1
		Bullhead Wash	Intersection of 5th Street and Main Street	#2
		Montana Wash	Intersection of Ramar Road and Monte Vista Drive	#2
		Chaparral Wash	Intersection of Mohave Drive and Via Arroyo	*501
		Fort Mohave Wash	Intersection of Jose Avenue and Normando Drive	#1
		Black Wash	Intersection of 6th Street and Long Avenue	#3
		South Mohave Valley Area:		#1
		Camp Mohave Wash	Intersection of Camp Mohave Road and La Calzada	
		Mohave Washes	Intersection of State Highway 95 (Mohave Valley Highway) and Los Gauchos Road.	#1
		Hualapai Valley Area:		
		Mohave Wash	Intersection of Thompson Avenue and Wash	*3,313
			Intersection of Sierra Vista Avenue and North Pinal Street.	*3,350
		Lake Havasu City Area:		
		Desert Wash	Intersection of Mohave Drive and Kenneth Lane	#2
		Jops Wash	Intersection of Havasu Garden Drive and Park View Drive.	#2
		Colorado City Area:		
		Short Creek	Upstream side of the intersection of State Highway 389 and the channel.	*4,930
		Hualapai Mountain Park Area:		
		Wheeler Wash	Upstream side of the intersection of Hualapai Mountain Road and the channel.	*6,150
		Wheeler Wash Tributary	Confluence with Wheeler Wash	*5,991
Maps available for inspection at Flood Plain Department, 4th & Spring, Kingman, Arizona.				
Send comments to the Honorable Jerry Holt, P.O. Box 390, Kingman, Arizona 86401.				
Connecticut	Durham, Town, Middlesex County	Allyn Brook	Confluence with Coginchaug River	*152
			Upstream of Maple Avenue	*164
			Confluence of Ball Brook	*185
		Ball Brook	Confluence with Allyn Brook	*185
			Approximately 3,700' upstrem of Maiden Lane	*205
		Coginchaug River	Downstream Corporate Limits	*152
			Upstream Meeting House Hill Road	*166
			Upstream Creamory Road	*177
			Approximately 2,250' upstream of Creamory Road	*186
			Upstream Corporate Limits	*202
		Hersig Brook	Confluence with Allyn Brook	*185
			Upstream of High School Drive	*197
			Approximately 1,100' upstream of High School Drive	*210
		Parmalee Brook	Confluence with Coginchaug River	*156
			Downstream Indian Lane	*167
			Approximately 1,300' upstream of Indian Lane	*200
			Upstream of Saw Mill Road	*222
			Approximately 6,200' upstream Saw Mill Road	*255
Maps available for inspection at Durham Town Clerk's Office, Town Hall, Durham, Connecticut.				
Send comments to the Honorable Foster Mather, First Selectman of Durham, Town Hall, Durham, Connecticut 06422.				
Connecticut	Plymouth, Town, Litchfield County	Pequabuck River	Downstream Corporate Limits	*508
			Conrail (Upstream)	*558
			U.S. Routes 6 & 202 (Upstream)	*588
			Eagle Street (Downstream)	*630

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Dam (Upstream)	*668
			Preston Road (Downstream)	*739
		Poland River	Confluence with Pequabuck River	*589
			North Main Street (Upstream)	*603
			State Route 72 (Upstream)	*662
			Dam (Downstream)	*1,066
		Naugatuck River	Leadmine Road—extended (Upstream)	*496
Maps available for inspection at the Plymouth Town Hall, Department of Planning, Zoning and Public Works, 19 East Main Street, Terryville, Connecticut.				
Send comments to the Honorable Charles H. Buell, Mayor of Plymouth, Plymouth Town Hall, 19 East Main Street, Terryville, Connecticut 06786.				
Connecticut	Tolland, Town, Tolland County	Willimantic River	Downstream Corporate Limits	*330
			Upstream of Depot Road	*352
			100' upstream of U.S. Route 44	*372
			100' upstream of Interstate Route 86	*381
			Approximately 6,650' upstream of Interstate Route 86	*400
			Approximately 200' downstream of Central Vermont Railway (most upstream crossing).	*426
			Upstream Corporate Limits	*436
Maps available for inspection at the Town Planners Office, Tolland Town Hall, 52 Tolland Green, Tolland, Connecticut.				
Send comments to the Honorable Edith Knight, Chairwoman of the Tolland Board of Selectmen, Town Hall, 52 Tolland Green, Tolland, Connecticut 06084.				
Florida	Unincorporated Areas of Highlands County	Arbuckle Creek	Just downstream of U.S. Highway 98 (State Highway 700).	*44
			Approximately 1,000 feet upstream of Seaboard Coast Line Railroad.	*50
		Arbuckle Creek West Division	Just upstream of U.S. Highway 98 (State Highway 700)	*45
		Jack Creek	Just upstream of Weir, 600 feet upstream of confluence with Josephine Creek.	*65
			Just upstream of Covered Bridge	*72
		Yellow Bluff Creek	Approximately 700 feet upstream of confluence with Josephine Creek.	*52
			Just downstream of U.S. Highway 98 (State Highway 700).	*77
		Josephine Creek	Just downstream of State Highway 17	*63
			Just upstream of Weir	*68
		Channel Between Lake June-In-Winter and Lake Placid.	Approximately 1300 feet upstream of confluence with Lake June-In-Winter.	*75
			Just downstream of Lake Placid	*96
		Channel Between Lake Josephine and Wolf Lake.	Just upstream of State Highway 66	*80
			Just upstream of Unnamed Road	*95
		Carter Creek	Just upstream of Arbuckle Creek Road	*67
			Just upstream of State Highway 17	*93
			Just upstream of confluence with Little Bonnet Lake	*102
		Channel A	Just upstream of State Highway 17	*98
			At Little Red Water Lake Shoreline	*104
		Lake Adelaide	Entire Shoreline	*109
		Lake Annie	Entire Shoreline	*113
		Lake Carrie	Entire Shoreline	*76
		Lake Charlotte	Entire Shoreline	*94
		Lake Chilton	Entire Shoreline	*115
		Lake Clay	Entire Shoreline	*79
		Lake Damon	Entire Shoreline	*100
		Lake Francis	Entire Shoreline	*72
		Grassy Lake	Entire Shoreline	*93
		Lake Henry	Entire Shoreline	*75
		Lake Huntley	Entire Shoreline	*84
		Lake Istokpoga	Entire Shoreline	*42
		Lake Josephine	Entire Shoreline	*75
		Lake June-In-Winter	Entire Shoreline	*75
		Lake McCoy	Entire Shoreline	*87
		Mirrow Lake	Entire Shoreline	*96
		Lake Olivia	Entire Shoreline	*118
		Lake Pabor	Entire Shoreline	*106
		Lake Pearl	Entire Shoreline	*87
		Persimmon Lake	Entire Shoreline	*69
		Lake Placid	Entire Shoreline	*96
		Lake Pythias	Entire Shoreline	*102
		Red Beach Lake	Entire Shoreline	*78
		Lake Ruth	Entire Shoreline	*92
		Lake Sebring	Entire Shoreline	*110
		Lake Trout	Entire Shoreline	*99
		Wolf Lake	Entire Shoreline	*95
Maps available for inspection at County Commissioner's Building, Sebring, Florida 33870.				
Send comments to Mr. Robert Skipper, Chairman, Board of County Commissioners, or Mr. Bill Stevenson, Zoning Director, P.O. Box 1926, Sebring, Florida 33870.				
Florida	City of Inverness, Citrus County	Tsala Apopka Lake	Entire Shoreline	*43
		Henderson Lake	Entire Shoreline	*43
		Little Spivey Lake	Entire Shoreline	*43
		White Lake	Entire Shoreline	*38
		Grant Lake	Entire Shoreline	*36

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at City Hall, Main Street, Inverness, Florida 32650.				
Send comments to Mayor Jacob Blanton or Ms. Marian E. Lattin, City Clerk, City Hall, P.O. Box 337, Inverness, Florida 32650.				
Florida	Unincorporated Areas of Sumter County	Withlacoochee River	Just downstream of Wysong Lock and Dam	*44
			Downstream of Florida Highway 48	*47
		Jumper Creek	Just downstream of Interstate Highway 75	*59
			Just downstream of U.S. Highway 301	*67
			Just downstream of Seaboard Coastline Railroad	*87
		Lake Pansaoffkee	Entire Shoreline of the Lake	*45
		Black Lake	The Entire Shoreline the Lake	*59
		Cherry Lake	The Entire Shoreline the Lake	*59
		Lake Miona	The Entire Shoreline the Lake	*59
		Lake Okahumpa	At the Florida Turnpike crossing the Lake	*62
		Lake Deaton	The Entire Shoreline of the Lake	*62
Maps available for inspection at Sumter County Courthouse, 400 North Florida Avenue, Bushnell, Florida 33213.				
Send comments to Mr. Harry Lovett, Chairman or Mr. William C. Wing, Vice Chairman, Board of County Commissioners, Sumter County Courthouse, P.O. Box 8, Bushnell, Florida 33213.				
Georgia	Unincorporated Areas of Brooks County	Withlacoochee River	Just upstream of U.S. Highway 84, 221 & State Highway 38.	*114
		Little River	Just downstream of State Highway 94	*128
		Okapilco Creek	Just upstream of U.S. Highway 84, 221 & State Highway 38.	*109
			Just upstream of North Highland Street	*114
			Just upstream of Southern Railway	*117
Maps available for inspection at Brooks County Courthouse, Screven Street, Quitman, Georgia 31643.				
Send comments to Mr. J. B. Thagard, Chairman or Mr. James R. Knight, Vice Chairman, Brooks County Courthouse, P.O. Box 272, Quitman, Georgia 31643.				
Illinois	(C) Rochelle, Ogle County	Kyte River	At the downstream corporate limits	*772
			About 160 feet downstream of 7th Street	*780
			About 250 feet upstream of South Main Street	*785
			Just downstream of the Burlington Northern Railroad	*786
			Just upstream of the Burlington Northern Railroad	*789
			About 120 feet upstream of the Chicago and North Western Railroad.	*790
			At the upstream corporate limits	*793
		Unnamed Tributary No. 1	At the mouth	*790
			Just downstream of Caron Road	*790
		Ryley Ditch	At the mouth	*789
			About 4350 feet upstream of First Avenue	*789
Maps available for inspection at the Engineer's Office, Municipal Building, Rochelle, Illinois.				
Send comments to Honorable Bill Cipolla, Mayor, City of Rochelle, Municipal Building, Rochelle, Illinois 61068.				
Indiana	(Uninc.), Porter County	Salt Creek	About 300 feet upstream of Interstate 80	*617
			Just upstream of 600 North Road	*630
			Just downstream of State Route 130	*642
			Just upstream of Norfolk & Western Railway (West of 325 West Road).	*648
			About 300 feet downstream of 250 West Road	*661
			Just upstream of Norfolk & Western Railway (East of 250 West Road).	*670
			Just upstream of Joliet Road	*680
			Just upstream of U.S. Route 30	*691
			Just downstream of Meridian Road	*691
		Kankakee River	At downstream county boundary	*650
			Just upstream of State Route 49	*660
			At upstream county boundary	*666
		Lake Michigan	Within Porter County	*584
Maps available for inspection at the Porter County Planning Commission Office, 1401 North Calumet Avenue, Valparaiso, Indiana.				
Send comments to Honorable Grover Biggs, Executive Secretary, Porter County Planning Commission, Unincorporated Areas of Porter County, Porter County Planning Commission Office, 1401 North Calumet Avenue, Valparaiso, Indiana 46383.				
Indiana	(C) Shelbyville, Shelby County	Big Blue River	At downstream corporate limit	*751
			Just upstream of Conrail	*759
			About 0.9 mile upstream of the confluence of the Little Blue River.	*764
		Little Blue River	At confluence with the Big Blue River	*761
			At upstream corporate limit	*768
Maps available for inspection at the Mayor's Office, Town Hall, 44 West Washington Street, Shelbyville, Indiana.				
Send comments to Honorable Dan Theobald, Mayor, City of Shelbyville, Town Hall, 44 West Washington Street, Shelbyville, Indiana 46176.				
Kansas	(C) Manhattan, Riley County	Kansas River	Confluence of Big Blue River	*1,010
			About 1,350 feet upstream of State Highway 177	*1,018
			About 2,500 feet upstream of confluence of Wildcat Creek.	*1,020
		Wildcat Creek	About 280 feet downstream of Union Pacific Railroad (at corporate limit).	*1,020
			About 900 feet upstream of confluence of Rolling Hills Tributary (at corporate limits).	*1,043
		Little Kitten Creek	Just upstream of U.S. Highway 24	*1,062
			About 1.8 miles upstream of U.S. Highway 24 (at corporate limit).	*1,119
		Virginia-Nevada Tributary	Mouth at Wildcat Creek	*1,038
			Just downstream of Anderson Avenue	*1,039

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 850 feet upstream of Beechwood Terrace	*1,066
		CI-CO Tributary	About 670 feet downstream of Anderson Avenue	*1,051
			About 100 feet downstream of Claflin Road	*1,051
			Just upstream of Claflin Road	*1,061
			About 1,400 feet upstream of Claflin Road	*1,076
		Rolling Hills Tributary	Mouth at Wildcat Creek	*1,042
			About 3,200 feet upstream of mouth	*1,099
		Shallow Flooding (Overflow from Riverside Drain).	Intersection of Hayes Drive and McCall Road	*1,008
			Intersection of Sarber Lane and Frontage Road	*1,008
			Just downstream of U.S. Highway 24	*1,008
Maps available for inspection at the City Hall, Manhattan, Kansas.				
Send comments to Honorable Ed Horne, Mayor, City of Manhattan, City Hall, Manhattan, Kansas 66502.				
Kansas	(Uninc.), Riley County	Kansas River	About 3600 feet downstream of the Riley County-Wabaunsee County boundary.	*989
			About 6700 feet upstream of the confluence of Dry Branch.	*1,048
		Big Blue River	Downstream county boundary	*1,010
			Just downstream of the Tuttle Creek Dam outlet portal	*1,028
		Wildcat Creek	Mouth at Kansas River	*1,020
			About 200 feet upstream of the confluence of Rolling Hills Tributary.	*1,043
			About 1700 feet upstream of Riley County Highway	*1,124
		Sevenmile Creek	Mouth at Kansas River	*1,034
			About 1600 feet upstream of State Highway 114	*1,062
		Wolf Creek	Mouth at Big Blue River	*1,028
			Just downstream of State Highway 13	*1,068
			Just upstream of State Highway 13	*1,086
			About 5000 feet upstream of State Highway 13	*1,130
		Deep Creek	Downstream county boundary	*889
			Just downstream of County Road 917	*1,010
		Phiel Creek	Mouth at Big Blue River	*1,028
			Just upstream of U.S. Highway 24	*1,040
			About 150 feet downstream of State Highway 113	*1,130
		Eureka Valley Tributary	Mouth at Kansas River	*1,034
			Just downstream of county road (at boundary of Fort Riley Military Reservation).	*1,074
		Dry Branch	Mouth at Kansas River	*1,045
			Just downstream of State Highway 114	*1,056
			About 2800 feet upstream of State Highway 114	*1,068
		Sevenmile Creek and Dry Branch Overflow.	About 600 feet downstream of City of Ogden corporate limits.	*1,046
			About 100 feet upstream of State Highway 114	*1,058
		Little Kitten	Mouth at Wildcat Creek	*1,050
			Just downstream of Chicago, Rock Island and Pacific Railroad.	*1,054
			Just downstream of U.S Highway 24	*1,060
			Just upstream of upstream City of Manhattan corporate limits.	*1,119
			About 3900 feet upstream of upstream City of Manhattan corporate limits.	*1,147
		Tuttle Creek Lake	Shoreline	*1,136
Maps available for inspection at the Riley County Courthouse, Manhattan, Kansas.				
Send comments to Honorable C.C. Hovan, Chairman of the County Commission, Riley County, County Courthouse, Manhattan, Kansas 66502.				
Kentucky	City of Raceland, Greenup County	Ohio River (Backwater Flooding on Pond Run).	Just upstream Railroad Avenue	*544
		Pond Run	Just upstream of Dillow Avenue	*563
			Just upstream of Hillview Avenue	*565
Maps available for inspection at City Hall, Chinn Street, Raceland, Kentucky 41169.				
Send comments to Mayor Jim R. Daniels or Mr. Wallace French, Treasurer, City Hall, Chinn Street, Raceland, Kentucky 41169.				
Louisiana	Village of Florien, Sabine Parish	Midkiff Creek	Just downstream of State Highway 474 (Port Arthur Avenue).	*243
			Just downstream of Kansas City Southern Railroad	*246
		Unnamed Tributary	Approximately 200 feet downstream of US Highway 171	*236
			Just upstream of US Highway 171	*237
Maps available for inspection at Village Hall, Highway 474, Florien, Louisiana 71429.				
Send comments to Mayor John R. Manasco or Mr. Michael D. Jones, Chief of Police, Village Hall, P.O. Box 68, Florien, Louisiana 71429.				
Louisiana	City of Kaplan, Vermillion Parish	Tributary 4 Coulee DeJohn Canal	At the lower corporate limits	*13
		Ponding Area	At intersection of North Cushing Avenue and 11th Street	*13
			At intersection of North Morvant Avenue and 4th Street	*13
Maps available for inspection at City Clerk's Office, City Hall, 511 North Cushing Avenue, Kaplan, Louisiana 70548.				
Send comments to Mayor Bennet Broussard, Or Ms. Ouida Broussard, City Clerk, City Hall, 511 Cushing Avenue, Kaplan, Louisiana 70548.				
Maine	Baileyville, Town, Washington County	St. Croix River	Downstream Corporate Limits	*93
			Confluence with Wapsaconhagan Brook	*103
			2,500' upstream of confluence with Wapsaconhagan Brook.	*108
		Wapsaconhagan Brook	Confluence with St. Croix River	*103
			120' downstream of Main Street	*109
			80' upstream of Main Street	*117
			80' upstream of U.S. Route 1	*124
			2,330' upstream of U.S. Route 1	*134

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			8,000' upstream of U.S. Route 1	*144
			13,000' upstream of U.S. Route 1	*154
	Maps available for inspection at the Baileyville Town Office on Broadway Street, Baileyville, Maine.			
	Send all comments to the Honorable Doug Jones, Chairman of the Town Council, c/o Baileyville Town Offices, Broadway Street, Baileyville, Maine 04619.			
Massachusetts	Charlton, Town, Worcester County	Little River	Approximately 425' downstream of Turner Road	*521
			Upstream of Turner Road	*550
			Upstream of U.S. Route 20	*567
			Approximately 0.8 mile upstream of U.S. Route 20	*606
		Cady Brook	Corporate Limits	*492
			Upstream of 1st crossing of State Route 169	*517
			Upstream of 2nd crossing of State Route 169	*564
			Upstream of Snake Hill Road	*581
			Approximately 1.0 mile upstream of Snake Hill Road	*617
			Downstream of dam	*671
		Deans Brook	Corporate Limits	*472
			Upstream of 2nd crossing of Saundersdale Road	*529
			Upstream of 2nd crossing of Blood Road	*555
			Downstream of McIntyre Road	*585
			Approximately 1,500' upstream of dam	*607
		Little Nugget Brook	Pikes Pond	*697
			Upstream of Northside Turnpike	*734
			Upstream of Little Nugget Drive	*772
		Pikes Pond Tributary	Pikes Pond	*697
			Upstream of Northside Turnpike	*736
			Approximately 1,050' upstream of Conrail	*782
	Maps available for inspection at the Charlton Town Hall, Main Street, Charlton, Massachusetts.			
	Send comments to the Honorable Leonard H. Abeler, Chairman of the Charlton Board of Selectmen, Charlton Town Hall, Main Street, Charlton, Massachusetts 01507.			
Massachusetts	Cheshire, Town, Berkshire County	South Branch Hoosic River	Corporate Limits	*924
			Cheshire Harbor Dam (Down stream)	*935
			Conrail (Upstream)	*948
			Confluence of South Brook	*958
			Approximately 1,000' upstream of confluence of Kitchen Brook.	*970
		South Brook	Confluence with South Branch Hoosic River	*958
			Approximately 970' upstream of confluence with South Branch Hoosic River.	*961
		Kitchen Brook	Confluence with South Branch Hoosic River	*968
			State Route 8 (Downstream)	*989
			Approximately 1,670' upstream of State Route 8	*1,060
			Approximately 2,800' upstream of State Route 8	*1,114
		Wells Road Brook	Confluence with South Branch Hoosic River	*951
			Approximately 3,780' upstream of confluence with South Branch Hoosic River.	*968
	Maps available for inspection at the Cheshire Town Hall, Church Street, Cheshire, Massachusetts.			
	Send all comments to the Honorable Harvey Daniels, Chairman of the Cheshire Board of Selectmen, Cheshire Town Hall, Cheshire, Massachusetts.			
Massachusetts	Lanesborough, Town, Berkshire County	Town Brook	Upstream of Bull Hill Road culvert	*1,104
			Putnam Road (Upstream)	*1,113
			Bridge Street (Upstream)	*1,121
			Private Road (downstream)	*1,148
			Bailey Road (downstream)	*1,170
			U.S. Route 7 (Downstream)	*1,178
			Approxaimtely 1,600' upstream of U.S. Route 7	*1,190
		Secum Brook	Approximately 70' upstream of Narragansett Avenue culvert.	*1,102
			Balance Rock Road (Upstream)	*1,121
			Olsen Road (Upstream)	*1,140
			Approximately 375' upstream of Olsen Road	*1,141
		Daniels Brook	Corporate Limits	*1,140
			Approximately 200' downstream of Potter Mountain Road.	*1,180
			Approximately 1,360' upstream of Potter Mountain Road	*1,214
		Pontoosue Lake	Entire shoreline with the community	*1,101
	Maps available for inspection at the Lanesborough Town Clerk's Office, Town Hall, 83 North Main Street, Lanesborough, Massachusetts.			
	Send all comments to Honorable Bertram B. Robinson, Chairman of the Board of Selectmen of Lanesborough, Town, Hall, 83 North Main Stree, P.O. Box D, Lanesborough Massachusetts 01237.			
Massachusetts	Westminster, Town, Worcester County	Wyman Pond Brook	Downstream Corporate Limits	*722
			Narrows Road approximately 3,070' upstream of Corporate Limits (Upstream).	*782
			Narrows Road approximately 6,660' upstream of Corporate Limits (Upstream).	*875
			Wyman Road (Upstream)	*893
			Culvert approximately 350' upstream of Worcester Road	*893
		Phillips Brook	Downstream Corporate Limits	*700
			Ashburnham Road approximately 3,500' upstream of Corporate Limits (Upstream).	*721
			Fred Smith Road (Upstream)	*771
			Approximately 6,400' upstream of Fred Smith Road	*820
		Round Meadow Pond Brook	Downstream Corporate Limits	*665
			Depot Road (Upstream)	*702
			Old Mill Dam (Upstream)	*866

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Round Meadow Pond Dam (Upstream)	*912
		Tributary to Round Meadow Pond	Confluence with Round Meadow Pond Brook	*912
			Old Town Farm Road (Upstream)	*933
			State Route 2 (Upstream) Aubuchon Avenue (Upstream)	*985
			Aubuchon Avenue (Upstream)	*1,076
			Gold Course Dam (Upstream)	*1,094
			Ellis Road (Upstream)	*1,107
		Smith Brook	Confluence with Wyman Pond Dam (Upstream)	*893
				*917
		Wyman Pond Tributary	State Route 140 (Upstream)	*883
Maps available for inspection at the Westminster Town Hall, 7 Bacon Street, Westminster, Massachusetts.				
Send all comments to the Honorable Mary E. VeDoe, Chairwoman of the Westminster Board of Selectmen, Town Hall, 7 Bacon Street, Westminster, Massachusetts 01473.				
Michigan	(C) Galesburg, Kalamazoo County	Kalamazoo River	Just upstream of 35th Street	*778
			Just upstream of Climax Road	*786
Maps available for inspection at the City Hall, 200 East Michigan, Galesburg, Michigan.				
Send comments to Honorable Dennis Bresson, Mayor, City of Galesburg, City Hall, 200 East Michigan, Galesburg, Michigan 49053.				
Michigan	(C) Williamston, Ingham County	Red Cedar River	About 2.25 miles downstream of South Putnam Street	*862
			About 1.05 miles upstream of South Putnam Street	*868
		Deer Creek	Mouth at Red Cedar River	*864
			About 2,150 feet upstream of West Wallace Street	*864
		Unnamed Tributary	Mouth at Red Cedar River	*864
			About 1,500 feet upstream of West Church Street	*864
Maps available for inspection at the Clerk's Office, City Hall, 161 East Grand River Avenue, Williamston, Michigan.				
Send comments to Honorable Drucilla Roehm, Mayor, City of Williamston, 161 East Grand River Avenue, Williamston, Michigan 48895.				
Missouri	(C) Burlington Junction, Nodaway County	Nodaway River	Just upstream of Norfolk and Western Railway	*918
			Just downstream of confluence of North Branch Nodaway River.	*920
Maps available for inspection at the City Hall, Box B, Burlington Junction, Missouri.				
Send comments to Honorable James Denny, Mayor, City of Burlington Junction, City Hall, Box B, Burlington Junction, Missouri 64428.				
Missouri	(C) Hopkins, Nodaway County	Hundred and Two River	About 1,500 feet downstream of County Highway JJ	*1,037
			At confluence of Middle Fork of Hundred and Two River	*1,040
		East Fork of Hundred and Two River	About 400 feet upstream of Burlington Northern railroad	*1,044
Maps available for inspection at the City Hall, Hopkins, Missouri.				
Send comments to Honorable Orris Fine, Mayor, City of Hopkins, City Hall, Hopkins, Missoun 64461				
Missouri	(C) Trimble, Clinton County	Dicks Creek	Just downstream of County Highway F (downstream of Oak Street).	*930
			Just downstream of Maple Street.	*937
			Just upstream of County Highway F (near Red Bud)	*944
Maps available for inspection at the City Hall, Trimble, Missouri.				
Send comments to Honorable Calvin Gandy, Mayor, City of Trimble, City Hall, Trimble, Missoun 64492				

(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: June 5, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-17929 Filed 6-16-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6080]

National Flood Insurance Program; 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 nation. 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).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 755–5585, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, 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 elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They 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. These proposed 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.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has beean delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations impose no restriction unless and until the local community valuntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevation prescribes how high to build in the floodplain and does not prescribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New Jersey	Bogota, borough, Bergen County	Hackensack River	Upstream corporate limits	*9
			Downstream corporate limits	*9
Maps available for inspection at the Borough Hall, 375 Larch Avenue, Bogota, New Jersey				
Send comments to Honorable William P. Schuber, Mayor of Bogota, Borough Hall, 375 Larch Avenue, Bogota, New Jersey 07603.				
New Jersey	Bordentown, township, Burlington County	Delaware River	Downstream corporate limits	*13
			Confluence of Crosswicks Creek	*14
		Blacks Creek	Confluence with Crosswicks Creek	*14
			U.S. Route 206 (upstream side)	*15
		Crosswicks Creek	Confluence with Delaware River	*14
			Upstream corporate limits	*19
Maps available for inspection at the Office of the Township Administrator, Township Building, Municipal Drive, Bordentown, New Jersey.				
Send comments to Honorable R. Joseph Foster, Jr., Mayor of Bordentown Township, Township Building, Municipal Drive, Bordentown, New Jersey 08505.				
New Jersey	Chester, township, Morris County	Lamington River	1,350' downstream of Ironia Road	*691
			Upstream corporate limits	*694
		Burdett Brook	Downstream corporate limits	*402
			2,500' upstream of State Route 24	*432
			Upstream of Old Mill Road (first crossing)	*471
			1,910' upstream of Old Mill road (first crossing)	*500
			Upstream of footbridge	*531
			3,450' upstream of footbridge	*600
			Downstream of Old Mill Road (second crossing)	*634
			Downstream of dam	*692
			Upstream of dam	*701
			Downstream of South Road	*707
		Peapack Brook	Downstream corporate limits	*273
			2,000' upstream of Saint Bernards Road	*300
			1,680' downstream of farm access road	*325
			Upstream of farm access road	*357
		Gladstone Brook	Downstream Corporate limits	*273
			Downstream of access road	*300
			1,110' upstream of access road	*313
		Indian Brook	Downstream corporate limits	*401
			1,350' upstream of State Route 24	*425
			Confluence with Burnett Brook	*446
maps available for inspection at the Office of the Tax Assessor, Municipal Building, Chester, New Jersey.				
Send comments to Honorable Frank Adessa, Mayor of the Township of Chester, P.O. Box 428, Chester, New Jersey 07930.				
New Jersey	Glen Gardner, borough, Hunterdon County	Spruce Run	Downstream corporate limits approximately 8,200' upstream of confluence with Spruce Run Reservoir	*365
			Approximately 9,140' upstream of confluence with Spruce Run Reservoir	*375
			Approximately 100' downstream of Main Street	*385
			Main Street (upstream side)	*388
			Sanatorium Road (upstream side)	*399
			Approximately 1,300' upstream of Sanatorium Road	*409
			Approximately 710' downstream of School Street	*419
			School Street (upstream side)	*428
			Main Street (upstream side)	*431
			Approximately 960' upstream of Main Street	*441
			Conrail (upstream side)	*450
			Bell Avenue (upstream side)	*453
			Approximately 2,680' upstream of Bell Avenue	*472
			Upstream corporate limits	*485

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
	Maps available for inspection at the Office of the Borough Clerk, Municipal Building, Glen Gardner, New Jersey.			
	Send comments to Honorable Stanley J. Oleniacz, Mayor of Glen Gardner, P.O. Box 307, Glen Gardner, New Jersey 08826.			
New York	Clarence, town, Erie County	Got Creek	Corporate limits	*591
			Newhouse Road (downstream side)	*603
			Approximately 1,300' upstream of Newhouse Road	*607
		Ransom Creek	Corporate limits	*584
			Miles Road (upstream side)	*592
			Conor Road (downstream side)	*602
			Conrail	*616
			Clarence Center Road (upstream side)	*625
			Goodrich Road (upstream side)	*630
			Approximately 7,150' upstream of Goodrich Road	*643
	Maps available for inspection at the Town Hall, 1 Town Place, Clarence, New York 14031.			
	Send comments to Honorable Carl J. Giglia, Supervisor of the Town of Clarence, Town Hall, 1 Town Place, Clarence, New York 14031.			
New York	Elbridge, town, Onondaga County	Seneca River	Downstream corporate limits	*381
			Upstream corporate limits	*382
		Skaneateles Creek	Downstream corporate limits	*387
			Upstream New York State Thruway	*394
			Upstream Conrail	*401
			Upstream corporate limits with village of Jordan	*431
			Upstream Valley Drive	*450
			Approximately 1,968' upstream Valley Drive	*468
			Approximately 3,552' upstream Valley Drive	*485
			Approximately 5,162' upstream Valley Drive	*499
			Downstream corporate limits with village of Elbridge	*518
			Upstream corporate limits with village of Elbridge	*541
			Downstream Hamilton Road	*547
	Maps available for inspection at Elbridge Town Hall, Jordan, New York.			
	Send comments to Honorable Lawrence Gray, Town Supervisor of Elbridge, Box 568, Jordan, New York 13080.			
New York	Elbridge, village, Onondaga County	Skaneateles Creek	Corporate limits	*511
			Upstream of Valley Drive/State Route 31C	*532
			Corporate limits	*542
	Maps available for inspection at the Village Office, 111 South Street, Elbridge, New York.			
	Send comments to Honorable Fred Platt, Mayor of the Village of Elbridge, 111 South Street, Elbridge, New York 13060.			
New York	Fulton, city, Oswego County	Lake Neatahwanta	Entire shoreline within community	*373
		Oswego River	Downstream corporate limits	*318
			Confluence of Waterhouse Creek	*318
			Downstream lock No. 3	*326
			Approximately 100' upstream lock No. 3	*344
			Downstream lock No. 2	*346
			Upstream lock No. 2	*358
			Upstream corporate limits	*358
		Tannery Creek	Downstream corporate limits	*361
			Upstream Hannibal Street	*371
			Confluence of Lake Neatahwanta	*373
		Waterhouse Creek	Confluence with Oswego River	*318
			Downstream North Sixth Street	*321
			Approximately 75' upstream North Sixth Street	*331
			Downstream dam	*340
			Upstream dam	*348
			Upstream corporate limits	*354
	Maps available for inspection at the Office of the City Engineer, Municipal Building, South First Street, Fulton, New York.			
	Send comments to Honorable Verner Droham, Mayor of Fulton, Municipal Building, South First Street, Fulton, New York 13069.			
New York	Geneva, city, Ontario and Seneca Counties	Castle Creek	Confluence with Seneca Lake	*449
			Upstream Conrail	*461
			Upstream of Hammond Lane	*477
			Downstream of Castle Street	*497
			Downstream of Brook Street	*513
			2,600' upstream of Brook Street	*547
		Marsh Creek	Confluence with Seneca Lake	*449
			Upstream of East North Street	*454
			Upstream corporate limits	*455
	Maps available for inspection at the Office of the City Engineer, City Hall, 47 Castle Street, Geneva, New York.			
	Send comments to Honorable Giles W. Reynolds, Mayor of Geneva, City Hall, 47 Castle Street, Geneva, New York 14456.			
New York	Jordan, village, Onondaga County	Skaneateles Creek	Downstream corporate limits	*401
			Upstream side of dam	*408
			Upstream side of Elbridge Street	*417
			Upstream corporate limits	*427
	Maps available for inspection at Village Hall, Mechanic Street, Jordan, New York.			
	Send comments to Honorable Richard Platten, Mayor of Jordan, Village Hall, Mechanic Street, Jordan, New York 13080.			
New York	Mendon, town, Monroe County	Irondequoit Creek	Downstream corporate limits	*511
			Mile Square Road (upstream side)	*537
			Approximately 4,000' upstream of Mile Square Road	*553
			Mendon-Ionia Road (upstream side)	*569
			West Bloomfield-Pittsford Road (upstream side)	*576
			Taylor Road (upstream side)	*585

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Cheese Factory Road (upstream side)	*607
			Chamberlain Road (extended)	*625
			Boughton Hill Road (upstream side)	*655
			Approximately 1,000' upstream of Boughton Hill Road	*657
		Honeoye Creek	Downstream corporate limits	*555
			Plains Road (upstream side)	*559
			Approximately 4,400' upstream of Plains Road	*565
			Approximately 3,200' downstream of Sibley Road	*571
			Sibley Road (upstream side)	*580
			Upstream crossing of Conrail	*596
			Approximately 2,800' upstream of Conrail crossing (upstream crossing).	*600
			Upstream corporate limits	*670
		Tributary A	Confluence with Irondequoit Creek	*572
			Rush-Mendon Road (upstream side)	*589
			West Bloomfield-Pittsford Road (upstream side)	*591
			Approximately 1,100' upstream of West Bloomfield-Pittsford Road.	*596
		Tributary B	Confluence with Irondequoit Creek	*576
			Pond Road Dam (upstream side)	*597
			Approximately 3,000' upstream of Pond Road Dam	*603
			Mendon Center Road (upstream side)	*623
			Approximately 3,100 upstream of Mendon Center Road.	*641
		Tributary C	Confluence with Irondequoit Creek	*604
			West Bloomfield-Pittsford Road (upstream side)	*608
			Lanning Road (upstream side)	*618
			Approximately 3,800' upstream of Lanning Road	*629
			Approximately 600' upstream of Boughton Hill Road	*658
		Tributary D	Confluence with tributary C	*618
			Approximately 1,300' downstream of Boughton Hill Road.	*630
			Approximately 550' upstream of Boughton Hill Road	*646
		Tributary E	Confluence with Irondequoit Creek	*607
			Approximately 2,100' upstream of West Bloomfield-Pittsford Road.	*625
			Approximately 500' upstream of Boughton Hill Road	*649
		Tributary F	Downstream corporate limits	*543
			New York State Thruway (upstream side)	*569
			Approximately 1,000' upstream of Cole Road	*572
	Maps available for inspection at the Mendon Town Office, 9 North Main Street, Honeoye Falls, New York.			
	Send comments to Honorable Roberta Barnes, Town Supervisor of Mendon, Mendon Town Hall, Honeoye Falls, New York, 14472.			
New York	Weedsport, village, Cayuga County	Cold Spring Brook	Downstream corporate limits	*392
			Upstream Conrail	*395
			Upstream corporate limits	*395
	Maps available for inspection at the Office of the Village Clerk, Village Hall, 8892 South Street, Weedsport, New York.			
	Send comments to Honorable Richard Coyle, Mayor or Weedsport, Village Hall, 8892 South Street, Weedsport New York 13168.			
North Dakota	Morton County (unincorporated areas)	Missouri River	500 feet east from the intersection of Burlington Northern Railroad with North Dakota State Highway 1806.	*1,632
		Heart River	100 feet downstream of center of U.S. Highway 10 (North Dakota State Highway 25).	*1,666
	Maps available for inspection at County Engineer's Office, Morton County Courthouse, 210 2nd Avenue, Mandan, North Dakota.			
	Send comment to the Honorable Richard Bendish, P.O. 368, Mandan, North Dakota 58554.			
North Dakota	Mandan (city), Morton County	Missouri River	Intersection of river and center of Burlington Northern Railroad.	*1,636
		Heart River	100 feet upstream from center of North Dakota State Highway 6.	*1,654
	Maps available for inspection at City Engineer's Office, 205 2d Avenue NW., Mandan, North Dakota.			
	Send comments to the Honorable Donald Hertz, 205 2d Avenue NW., Mandan, North Dakota 58544.			
Oklahoma	Town of Mounds, Creek County	North Duck Creek	Just upstream of St. Louis-San Francisco Railroad	*726
		Middle Duck Creek	Just upstream of Cemetery Road	*707
		Stream A	Just upstream of 8th Street	*724
	Maps available for inspection at City Hall, Mounds, Oklahoma 74047.			
	Send comments to Mayor David Sivadon or Charles Stephenson, Town Manager, P.O. Box 318, Mounds, Oklahoma 74047.			
Oregon	Forest Grove (city) Washington County	Tualatin River	Area north of Tualatin River, along Fern Hill Road	*158
		Gales Creek	Intersection of Ash Street and 13th Avenue	*169
		Council Creek	Limit of detailed study area, west of State Highway 47	*166
	Maps available for inspection at Administrative Offices, 1924 Council Street, Forest Grove, Oregon.			
	Send comments to the Honorable James George Hills, P.O. Box 326, Forest Grove, Oregon 97116.			
Pennsylvania	Coatesville, city, Chester County	West Branch Brandwine Creek	Downstream corporate limits	*306
			Upstream of Lincoln Highway	*315
			Approximately 700 feet upstream of Lincoln Highway	*321
			Approximately 3,050 feet downstream of State Route 30 By-pass.	*345
			Upstream of Route 30 By-pass	*357
			Upstream corporate limits	*362

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sucker Run	Strode Avenue	*315
			Upstream corporate limits	*319
Maps available for inspection at the City Hall, Coatesville, Pennsylvania.				
Send comments to Honorable Paul Aucker, Mayor of Coatesville, City Hall, Coatesville, Pennsylvania 19320.				
Pennsylvania	Cranberry, township, Butler County	Brush Creek	Downstream corporate limits	*973
			Upstream of Powell Road	*980
			Approximately 6,000' upstream of Powell Road	*988
			Upstream of Rochester Road	*999
			Confluence of Coal Run	*1,007
			Upstream of Freedom Road	*1,011
			Upstream of Commonwealth Drive	*1,019
			Upstream corporate limits	*1,024
		Coal Run	Confluence with Brush Creek	*1,007
			Upstream of Pennsylvania Turnpike	*1,012
			Upstream of Rochester Road	*1,026
			Upstream of Interstate Route 79	*1,034
			Upstream of Fox Run Road	*1,057
			Upstream of Canterbury Trail	*1,070
			Downstream of Northfield Road	*1,090
Maps available for inspection at the Cranberry Municipal Building, 1506 Rochester Road, R.D. 5, Mars, Pennsylvania.				
Send comments to Honorable Frank Petrone, Chairman of the Cranberry Board of Supervisors, 1506 Rochester Road, R.D. 5, Mars, Pennsylvania 16046.				
Texas	Unincorporated areas of Caldwell County	San Marcos River	Just upstream of confluence of Plum Creek	*354
			Just downstream of Interstate Highway 10	*357
			Just upstream of Southern Pacific Railroad	*380
			Just downstream of State Highway 671	*405
			Just upstream of State Highway 20	*443
			Just upstream of Farm Market Road 1977	*482
		Unnamed tributary to San Marcos River.	Just upstream of State Highway 80	*558
		Shallow flooding area	Just upstream of State Highway 80	*558
		Tenney Creek	Just upstream of Farm Market Road 3158	*445
			Just upstream of State Highway 731	*446
		Campbell Creek	Just upstream of Farm Market Road 3158	*445
			Just upstream of a dirt road	*458
		Seals Creek	Just upstream of Old San Marcos Highway	*374
			Just downstream of U.S. Highway 90	*375
		Seals Creek tributary	Just upstream of Old San Marcos Highway	*374
		West Fork Plum Creek	Just upstream of State Highway 20	*475
		Little West Fork	Just downstream of an unnamed road	*484
		Big West Fork	Just upstream of an unnamed road	*489
Maps available for inspection at the County Judge's Office, County Courthouse, Lockhart, Texas 78644.				
Send comments to Honorable L. W. Scott, Caldwell County Courthouse, Lockhart, Texas 78644.				
Texas	City of Stafford, Fort Bend and Harris Counties	Stafford Run	Just upstream of dirt road	*80
			Just upstream of Avenue E	*77
Maps available for inspection at City Hall, 2610 South Main, Stafford, Texas 77477.				
Send comments to Mayor Leonard Scarcella or Mr. Varcaro, Director of Public Works, City Hall, 2610 South Main Street, Stafford, Texas 77477.				
Texas	City of Uvalde, Uvalde County	Leona River	Just upstream of East Mesquite Street	*902
			Just upstream of Leona Street	*903
			Just downstream of Studer Street	*907
		Cooks Slough	Just upstream of W. Main Street (U.S. Highway 90)	*901
			Just upstream of Fort Clark Street	*903
			Just upstream of Bohme Street extended	*909
			Just upstream of Benson (FM Highway 1052)	*916
		Taylor Slough	Just downstream of U.S. Highway 90	*916
			Just upstream of U.S. Highway 90	*921
Maps available for inspection at City Hall, Intersection of Highways 90 and 83, Uvalde, Texas 78801.				
Send comments to Mayor John Harrell or Mr. James Thurmond, City Manager, City Hall, P.O. Box 799, Uvalde, Texas 78801.				
Vermont	Duxbury, town, Washington County	Winooski River	Downstream corporate limits	*341
			Bolton Falls Dam (downstream side)	*359
			Bolton Falls Dam (upstream side)	*405
			Upstream crossing of Central Vermont Railroad	*416
			Upstream Corporate Limits	*428
		Crossett Brook	Confluence with Winooski River	*427
			Approximately 2,060' Upstream of State Route 100 (downstream crossing).	*445
			State Route 100 upstream crossing (downstream side)	*493
			Approximately 190' upstream of Private Drive	*523
Maps available for inspection at the Duxbury Town Clerk's Office, Waterbury, Vermont.				
Send comments to the Honorable Wade Morse, Chairman of the Duxbury Board of Selectmen, Duxbury Town Office, P.O. Box 387, Waterbury, Vermont 05676.				
Vermont	Waterbury, town, Washington County	Winooski River	Downstream corporate limits	*353
			Upstream of Bolton Falls Dam	*405
			Upsteam Central Vermont Railway	*419
			Upstream corporate limits	*433
		Thatcher Brook	Downstream corporate limits	*503
			Downstream of Laurel Road	*575
			Upstream Guptil Road (1st crossing)	*587
			Upstream Guptil Road (2d crossing)	*592
			Upstream Guptil Road (3d crossing)	*610
			Approximately 75' upstream from Guptil Road (4th crossing).	*643

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Waterbury Municipal Offices, Waterbury, Vermont.				
Send comments to the Honorable Robert Winchell, Waterbury Town Manager, Waterbury Municipal Offices, Waterbury, Vermont 05676.				
Vermont	Waterbury, village, Washington County	Winooski River	Downstream corporate limits	*421
			Winooski Street (upstream side)	*425
			Upstream corporate limits	*428
		Thatcher Brook	Confluence with Winooski River	*423
			Interstate 89 (upstream side)	*430
			Interstate 89 off ramp (upstream side)	*440
			Dam appoximately 310' upstream of Interstate 89 off ramp.	*454
			Dam approximately 400' downstream of Stowe Street	*492
			Stowe Street (downstream side)	*499
			Corporate limits	*504
Maps available for inspection at the Waterbury Municipal Offices, Waterbury, Vermont.				
Send comments to the Honorable Robert Winchell, Waterbury Village Manager, Waterbury Municipal Offices, Waterbury, Vermont 05676.				
Vermont	Wolcott, town, Lamoille County	Lamoille River	Downstream corporate limits	*663
			200' downstream of Town Highway 38	*673
			350' upstream of Lamoille Valley Railroad (second most downstream crossing).	*684
			125' upstream of School Street (Town Highway 3)	*693
			575' upstream of State Route 15 (downstream crossing).	*703
			1,270' downstream of Pottersville Dam	*713
			420' downstream of Pottersville Dam	*723
			50' downstream of Pottersville Dam	*736
			Upstream of Pottersville Dam	*767
			400' downstream of State Route 15 (upstream crossing).	*777
			Upstream corporate limits	*784
		Wild Branch	Confluence with Lamoille River	*676
			80' downstream of Town Highway 2	*686
			2,125' downstream of Town Highway 15	*696
			90' upstream of Town Highway 15	*707
			2,075' upstream of Town Highway 15	*717
			1,450' upstream of private drive (upstream crossing)	*737
			2,330' downstream of Town Highway 12	*767
			70' downstream of Town Highway 13	*781
			600' upstream of Town Highway 13	*788
			3,250' upstream of Town Highway 13	*808
			4,870' upstream of Town Highway 13	*828
			7,220' upstream of Town Highway 13	*868
			3,500' downstream of private drive (upstream crossing).	*888
			2,550' downstream of private drive (upstream crossing).	*898
			1,200' downstream of private drive (upstream crossing).	*908
			Upstream corporate limits	*928
Maps available for inspection at the Town Clerk's Office, Wolcott, Vermont.				
Send comments to the Honorable Eugene Gates, Chairman of the Wolcott Board of Selectmen, c/o Wolcott Town Clerk's Office, Wolcott, Vermont 05680.				
Virginia	Boykins, town, Southampton County	Tarrara Creek	Bryant Avenue (extended)	*31
			Downstream of Main Street	*36
			Upstream of Intersection of Seaboard Coast Line with corporate limits.	*39
Maps available for inspection at the Town Hall, Boykins, Virginia.				
Send comments to Honorable Jim Hill, Manager of Boykins, Box 363, Boykins, Virginia 23827.				
Washington	Roy (town), Pierce County	Muck Creek	50 Feet upstream from center of Warren Street	*312
Maps available for inspection at Town Clerk's Office, Town Hall, McNaught Street, Roy, Washington.				
Send comments to the Honorable Roy A. Moline, P.O. Box 177, Roy, Washington 98580.				

(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: June 5, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-17940 Filed 6-16-81; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6078]

National Flood Insurance Program; 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 and proposed changes to base flood elevations for selected locations in the nation. 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).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 755–5585 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 proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 and Section 206 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) (presently appearing at its former Title 24, Chapter X, § 1917.4(a)).

These elevations, together with the flood plain management measures required by § 60.3 (formerly § 1910.3) of the program regulations, are the minimum that are required. They 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. These proposed 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 are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(Township), Locke, Ingham County	Red Cedar River	Downstream corporate limits	*868
			About 1.1 miles upstream of the downstream corporate limit.	*869
Maps available for inspection at the Clerk's Home, 3959 Rowley Road, Williamston, Michigan.				
Send comments to Honorable Robert Force, Township Supervisor, Township of Locke, 2655 Rowley Road, Williamston, Michigan 48895.				
Missouri	(C), Hannibal, Marion and Ralls Counties	Mississippi River	About 1.0 mile downstream of confluence of Bear Creek.	*475
			About 0.6 mile upstream of Norfolk and Western Railway.	*476
		Mills Creek	At mouth	*484
			Just downstream of Johnson Street	*497
			Just downstream of Lilly Avenue	*507
		Minnow Branch	Just downstream of Burlington Northern Railroad	*487
			Just upstream of Market Street	*493
			Just downstream of Bird Street	*540
			Just upstream of Bird Street	*545
			About 200 feet upstream of Munger Lane	*589
		Unnamed tributary	At mouth	*513
			Just downstream of Norfolk and Western Railway	*520
			Just upstream of Burlington Northern Railroad	*525
			About 4,000 feet upstream of U.S. Highway 61	*567
		Bear Creek	At mouth	*475
			Just upstream of Lindell Avenue	*485
			Just downstream of New London Road	*515
			About 900 feet upstream of New London Road	*519
			About 3,300 feet upstream of U.S. Highway 61	*526
Maps available for inspection at the City Hall, 320 Broadway, Hannibal, Missouri.				
Send comments to Honorable Lillian Herman, Mayor, City of Hannibal, City Hall, 320 Broadway, Hannibal, Missouri 63401.				
New Jersey	Lopatcong, township, Warren County	Dry Run	Approximately 450' upstream U.S. Route 22	*253
			Downstream Conrail	*301
			Upstream State Route 57	*316
			Approximately 600' upstream Powder Horn Drive	*354
Maps available for inspection at the office of the Township Clerk, Lopatcong Municipal Building, Phillipsburg, New Jersey.				
Send comments to Honorable Raymond W. Miller, Mayor of Lopatcong, 232 Third Street, Morris Park, Phillipsburg, New Jersey 08865.				
Vermont	Montpelier (city), Washington County	Winooski River	150 feet upstream from centerline of Central Vermont Railroad.	*518
			50 feet upstream from centerline of Main Street	*529
			200 feet upstream from concrete dam upstream of Pioneer Street.	*539
		North Branch Winooski River	100 feet upstream from centerline of State Street	*526
			100 feet upstream from centerline of Gould Hill Road	*537
			100 feet upstream from centerline of Haggett Road	*561
		Dog River	50 feet upstream from centerline of Montpelier and Barre Railroad.	*520

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Stevens Branch	150 feet upstream from confluence with Winooski River.	*547

Maps available for inspection at Zoning Administrator's Office, City Hall, Main Street, Montpelier, Vermont.
Send comments to the Honorable Charles Nichols, City Hall, Main Street, Montpelier, Vermont 05602.

(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: June 1, 1981.

Richard W. Krimm,

Acting Administrator, Federal Insurance Administration.

[FR Doc. 81-17934 Filed 6-16-81; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Docket No. 80-739; Report No. 16379]

Frequency Allocations and Radio Treaty Matters; General Rules and Regulations

AGENCY: Federal Communications Commission.

ACTION: Second notice of inquiry.

SUMMARY: The Commission is soliciting public comments, through a series of documents in this proceeding (Docket 80–739), on national implementation of the Final Acts of the 1979 World Administrative Radio Conference. This action was taken to consider frequency allocations for the portion of radio spectrum from 28 MHz through 1215 MHz.

DATES: Comments are due on or before July 15, 1981 and replies on or before August 30, 1981.

ADDRESS: Federal Communications Commission, 1919 "M" Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Thomas, Office of Science and Technology, 1919 "M" Street, N.W., Washington, D.C. 20554, (202) 653–8171.

Action in Docket Case—Inquiry Adopted on Implementation of 1979 WARC Actions

May 22, 1981.

The Commission has adopted a Second Notice of Inquiry proposing revision of the Table of Frequency Allocations established in FCC Rules (Section 2.106) covering the bands from 28MHz in preparation for implementation of actions taken at the 1979 World Administrative Radio Conference.

The actions of the Conference comprise a treaty, which the United States has not yet ratified. The actions take effect internationally January 1, 1982, for those countries which have ratified the treaty. The WARC was held under the auspices of the International Telecommunication Union, of which the United States is a member.

FCC rule changes resulting from Conference actions will not be adopted until after ratification. A First Notice of Inquiry, released December 30, 1980, (46 FR 3060; January 13, 1981)[1] covered changes in frequency allocations up to 28 MHz.

The new Notice compares Conference action in the 28–1–215 MHz bands with U.S. proposals, most of which were adopted entirely or in part, in order to develop appropriate modifications of FCC Rules. In cases where flexibility was provided, this Notice proposes appropriate Rule changes.

The Commission invited interested persons to file comments in the inquiry. Deadlines for filing comments and replies will be announced later.

For further information contact William Torak, (202) 632–7025, or Fred Thomas, (202) 653–8171.

Note.—Due to the effort to minimize publishing costs, the Notice of Inquiry will not be printed. However, copies may be obtained from the FCC Press Office, Room 202, 1919 M St., N.W., Washington, D.C. 20554.

[1] *Editorial Note:* This document was originally published in the notices section of the **Federal Register**. It should have appeared in the Proposed Rules Section.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-18031 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 63

[CC Docket 78-72-Phase 2]

MTS–WATS Market Structure; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communication Commissions.

ACTION: Notice of inquiry and proposed rule; extension of reply comment period.

SUMMARY: This order grants in part the request of Alascom, Inc., for leave to file additional reply comments in response to the *Report and Third Supplemental Notice of Inquiry and Proposed Rulemaking* in the MTS–WATS market structure inquiry (78–72–Phase 2), 81 FCC 2d 177 (1980), 45 FR 55777 (released August 21, 1980). That order granted Alascom one more opportunity in which to make a showing that the public interest would be best served by sole source supply in the Alaskan MTS–WATS market.

DATES: Alascom is granted until June 22, 1981, in which to file reply comments in response to the opposition's filed in response to its impact study filed January 8, 1981.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Douglas L. Slotten, Policy and Program Planning Division, Common Carrier Bureau, (202) 632–9342.

Memorandum Opinion and Order

Adopted: June 8, 1981.
Released: June 11, 1981.

By the Chief, Common Carrier Bureau:

1. On May 1, 1981, Alascom, Inc., filed a *Motion Requesting Leave To File Reply Comments* in the above-captioned proceeding. This motion asks that Alascom be given until July 24, 1981, to revise its study and respond to the replies filed on March 25, 1981. General Communication, Inc. (GCI) and Southern Pacific Communications Company (SPCC) filed opposition to Alascom's motion. Alascom has replied.

2. Alascom's first basis for requesting leave to file additional pleadings in this proceeding is based on a procedural due process theory. It argues that the Commission placed the burden of proof on it and required it to file its study in the first round of comments. Thereafter, the Commission authorized other interested persons to file replies to its study. However, it argues that it must be given an opportunity to respond to the comments of other parties that have challenged its legal arguments and its study methodologies and conclusions.

3. Alascom's second argument is that many of the criticisms of its study methodology are well taken, and it therefore proposes to revise its study to provide more refined and reliable data. Alascom proposes to supplement its data base; to restructure the traffic model to redetermine the customers with reason to change; to test the sensitivity of the changeover, assumptions, and establish a confidence interval; and to revise the separation, financial and rate impact studies. Alascom states that most of these steps must be done sequentially and that the entire process will take ten weeks. In addition, Alascom allows itself a further two weeks to prepare the response portion of its comments reflecting the improved study results. Alascom states that it wants only to perfect the procedure and reliability of its study so as to improve the record and foster a reasoned decision. It states that July 24, 1981, is the earliest reasonable time in which the substantial effort can be completed and submitted.

4. GCI and SPCC argue that the Commission should deny Alascom's motion. They submit that Alascom is not seeking merely to respond, but rather is seeking to introduce new information in the form of an updated and revised third study. They assert this will unduly prolong an already extended proceeding, thereby placing an additional burden on Alascom, the Commission, and opposing parties, with the likely result that any new study will again result in a futile effort to demonstrate the alleged impact. Finally, they argue that if the Commission should permit Alascom to submit a revised study, additional opportunity for comment must be provided them.

5. In response, Alascom states that it submitted the best study that could be done given the constraints on time and the uncertainly about what studies would satisfy the Commission's needs. Fundamental fairness, Alascom states, requires that it be given an opportunity to respond to the oppositions to its showings. The objective of getting at the facts rather than deciding issues based on procedural rigidity or burden of proof criteria favors allowing Alascom to submit revised study showings. Alascom states that the Commission's role is not to provide an adversarial forum for parties to argue their differing policy positions, but rather to determine the public interest and fostering Alaskan communications. It states that if GCI and SPCC are confident that no injury can be shown, no harm can result from allowing Alascom to submit its revised study. It states that it has no objection to other parties filing reply comments to its revised study showings.

6. We conclude that there is merit to Alascom's procedural argument that it should be provided an opportunity to rebut the comments of parties filing in opposition to its legal analysis and its economic findings.[1] However, a reading of Alascom's motion reveals an intent to do more than merely rebut the reply comments. Rather, it seeks to file new, revised studies of economic impact to correct for errors noted by opposing parties in its earlier study methodology.

7. This proceeding has a long history. It was commenced in February 1978, *Notice of Inquiry and Proposed Rulemaking*, 67 FCC 2d 757 (1978). On August 30, 1979, the Commission issued a *Supplemental Notice of Inquiry and Proposed Rulemaking*, 73 FCC 2d 222 (1979), which invited interested persons to submit comments describing an optimal industry structure for the MTS–WATS market including an entry policy and other related regulatory policies which in combination will be most likely to produce results that further the goals of the Communications Act. Alascom sought clarification as to whether the Alaskan market was at issue. After the Commission affirmed that the Alaskan market was, in fact, at issue, an extention of time to file comments of approximately two and a half weeks was granted at Alascom's request. In an order released August 25, 1980, *Report and Third Supplemental Notice*, 81 FCC 2d 177 (1980), the Commission gave Alascom another opportunity to demonstrate by "clear and convincing evidence that the creation of a protected enclave is required in order to avoid evils the Communications Act was designed to prevent." 81 FCC 2d at 204. This order established October 17, 1980 as the date on which Alascom should file supplemental comments. Subsequently, Alascom was granted three extensions of time of approximately one month each in which to file supplemental comments. Now, five weeks after reply comments have been filed, Alascom has asked for four months in which to revise its study and submit additional comments.

8. In setting comment periods in rulemaking proceedings, the Commission must balance the need to keep a proceeding moving expeditiously with the need of permitting parties as full an opportunity as possible to present their position. In this proceeding, Alascom has already had two opportunities to make its economic showing, namely, in response to the *First Supplemental Notice* and in response to the Third Supplemental Notice. In each of these instances, Alascom has been granted additional time, a total of nearly three months in the latter of these two instances. It now seeks to change its assumptions, redo its latest economic study, and to submit these as rebuttal comments. For this purpose, it requested four months from March 25, 1981, the date on which reply comments were filed. This is an extremely lengthly and unusual request, which would result in substantial delay in concluding this proceeding and leave a cloud over the business opportunities of potential entrants. This cloud can only work to Alascom's advantage by discouraging entry, and if the tentative conclusion of the Third Notice is reaffirmed, it will serve to delay the introduction of the unrestrained competitive benefits to telecommunication users in Alaska. In light of these factors, the only conclusion that can be reached is that the public interest will not be served by allowing Alascom until July 24, 1981, in which to file rebuttal comments.

[1] While a five week delay in filing for leave to file additional comments could be the basis of dismissing a motion as untimely filed, we do not choose to follow that course herein. As noted, we believe procedural fairness requires Alascom to have a chance to rebut the opposition comments, an opportunity that the Commission did not directly provide in the Order giving Alascom another chance to argue for sole source supply. However, this lengthy delay in filing its motion is certainly not helpful to Alascom here and might give rise to questions as to its commitment to keep this proceeding moving expeditiously.

9. Even if Alascom could redo its studies in four months, the Commission cannot allow parties repeated opportunities to submit economic showings if it is to make the public policy decisions with which it is charged in an expeditious manner. We do not believe that four months is necessary to prepare rebuttal comments to the oppositions filed in this proceeding. However, to permit the filing or rebuttal comments which we conclude procedural fairness requires, we will permit Alascom to file rebuttal comments by June 22, 1981.

10. At this time we are unable to determine the nature or scope of the rebuttal comments Alascom will file on June 22, 1981. We are therefore unable to determine whether reply comments may be appropriate or necessary. Therefore, no reply period is being established. This conclusion is without prejudice to any determination that may be necessary subsequent to June 22, 1981.

11. Accordingly, it is ordered, pursuant to Section 5(d) of the Communications Act of 1943, as amended, 47 U.S.C. 155(d); and § 0.291 of the Commission's Rules, 47 CFR 0.291, that Alascom's motion for leave to file additional comments is granted to the extent that it is given until June 22, 1981, in which to file rebuttal comments, and in all other respects is denied.

12. It is further ordered, that the requests of General Communications, Inc. and Southern Pacific Communications Company to establish an opportunity to respond to Alascom's rebuttal comments are denied, without prejudice to any action on later petitions.

Joseph A. Marino,

Acting Chief, Common Carrier Bureau.

[FR Doc. 81-17907 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 81-372; RM-3777]

FM Broadcast Station, Madison, Minn.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign FM Channel 221A to Madison, Minnesota, in response to a petition filed by Maynard R. Meyer. The assignment would provide Madison with a first local aural service.

DATE: Comments must be filed on or before August 10, 1981, and reply comments on or before August 28, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-77-92.

SUPPLEMENTARY INFORMATION:

Adopted: June 2, 1981.

Released: June 11, 1981.

In the matter of an amendment of § 73.202(b), table of assignments, FM broadcast stations (Madison, Minnesota), BC Docket No. 81-372, RM-3777, notice of proposed rule making.

1. Maynard R. Meyer ("petitioner") has filed a petition for rule making [1] seeking assignment of FM Channel 221A to Madison, Minnesota, as that community's first FM assignment. The assignment can be made in compliance with the minimum distance separation requirements, and petitioner states that it will apply for the channel, if assigned.

2. Madison (population 2,242),[2] the seat of Lac Qui Parle County (population 11,164), is located approximately 240 kilometers (150 miles) west of St. Paul, Minnesota. It has no local aural service.

3. Petitioner failed to set forth in its proposal demographic and economic information with respect to the Madison area to demonstrate the need for the proposed assignment, and is required to do so by the date established herein for filing comments.

4. In order to give further consideration the request, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Madison, Minn.		221A

5. 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.

6. Interested parties may file comments on or before August 10, 1981, and reply comments on or before August 28, 1981.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. *See, Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Mark N. 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.

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

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 § 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 a 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 the Commission's 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

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[1] Public Notice of the petition was given November 3, 1980, Report No. 1254.

[2] Population figures are taken from the 1970 U.S. Census.

that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

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's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an orginal 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. 81-17903 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 46, No. 116
Wednesday, June 17, 1981

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.

CIVIL AERONAUTICS BOARD

Application of Air Chicago, Inc. for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 81–6–73 application of Air Chicago, Inc., under Subpart Q for a certificate of public convenience and necessity Docket 39628.

SUMMARY: The Board is proposing to grant a certificate of public convenience and necessity to Air Chicago, Inc., subject to a favorable determination of its fitness, to authorize it to provide air transportation of persons, property and mail between and among the 42 Chicago (Midway Airport) markets listed in its application. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below no later than July 2, 1981, a statement of objections, together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 39628, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Thomas G. Chew, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673–5056.

SUPPLEMENTARY INFORMATION: Objections should be served upon Air Chicago, Inc.; the Mayors of Chicago, Illinois, Atlanta, Georgia, Baltimore, Maryland, Boston, Massachusetts, Buffalo, New York, Cincinnati, Ohio, Cleveland, Ohio, Columbus, Ohio, Dallas/Ft. Worth, Texas, Dayton, Ohio, Denver, Colorado, Des Moines, Iowa, Detroit, Michigan, Hartford, Connecticut, Houston, Texas, Indianapolis, Indiana, Long Island-MacArthur, New York, Kansas City, Missouri, Lincoln, Nebraska, Louisville, Kentucky, Memphis, Tennessee, Milwaukee, Wisconsin, Minneapolis/St. Paul, Minnesota, Nashville, Tennessee, New Orleans, Louisiana, New York, New York, Newark, New Jersey, Oklahoma City, Oklahoma, Omaha, Nebraska, Peoria, Illinois, Philadelphia, Pennsylvania, Pittsburgh, Pennsylvania, Moline, Illinois, Rockford, Illinois, Rochester, New York, St. Louis, Missouri, Sioux Falls, South Dakota, Syracuse, New York, Toledo, Ohio, Tulsa, Oklahoma, Washington, D.C., and White Plains, New York; the manager of these cities' airports; the Illinois Department of Transportation, the Louisiana Department of Transportation, the Michigan Aeronautics Commission, the New York State Department of Transportation; the Oklahoma Aeronautics Commission, the Ohio Department of Transportation, the Tennessee Department of Transportation, and Texas Aeronautics Commission; the Federal Aviation Administration, the Airline Pilots Association, and the Association of Flight Attendants.

The complete text of Order 81–6–73 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. Persons outside the metropolitan area may send a post card request for Order 81–6–73 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, June 11, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81–17974 Filed 6–16–81; 8:45 am]

BILLING CODE 6320–01–M

Pan American World Airways, Inc.; Order Concerning Mail Rates

Order 81–6–85, June 12, 1981, Docket 37392, denies the petition of Pan American World Airways, Inc. for reconsideration of Order 81–4–107 which established final mail rates for the period January 1 through March 31, 1981.

Copies of the order are available from the C.A.B. Distribution Section, Room 516, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81–17975 Filed 6–16–81; 8:45 am]

BILLING CODE 6320–01–M

[Docket Nos. 38019, 38961; Order 81–6–67]

Wien Air Alaska Mainline and Bush Mail Rates Investigation and Intra-Alaska Class Service Mail Rates

Issued under delegated authority June 10, 1981.

Order

Order 81–6–4, establishing an informal conference[1] of the parties to these proceedings, states that the conference would be governed by the rules for informal mail rate conferences in §§ 302.313 and 302.314 of the Board's Procedural Regulations. Informal mail rate conferences are closed to the public and the participants are required to comply with certain rules for the nondisclosure of information obtained during the course of the conference.

After further consideration, the undersigned concludes that the nature of the proceedings at this point do not warrant the institution of an informal mail rate conference. Accordingly, the conference established in Order 81–6–4 will be open to the public and the procedures in §§ 302.313 and 302.314 will not be applied. It should be emphasized, however, as the order already states, that actual participation in the conference will be limited to the parties to Dockets 38019 and 38961 and the Board's staff.

Accordingly,

1. Ordering paragraph 4 of Order 81–6–4 is amended to read as follows:[2]

"4. The provisions contained in 14 CFR 302.313 and 14 CFR 302.314 will not apply to this conference."

2. A copy of this order will be served on Alaska Airlines, Alaska International Air, Kodiak-Western Alaska Airlines, Munz Northern Airlines, Reeve Aleutian Airways, Peninsula Airlines, Sea

[1] The conference is scheduled for June 17, 1981.

[2] Due to an oversight in drafting, ordering paragraph 2 already contains notice that the conference would be open to the public. Therefore, the amendment here simply brings the rest of the order into conformity with that invitation.

Airmotive, Wien Air Alaska and the Postmaster General.

This order will be published in the Federal Register.

Persons entitled to petition the Board for review of this order under the Board's Regulations, 14 CFR 385.50, may file their petitions within 10 days of the date of service of this ordfer.

This order shall become effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within that period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

Phyllis T. Kaylor,

Secretary.

Attachment

Service List, Dockets 38019 and 38961

Alaska International Air, Inc., Box 60029, Airport Annex, Fairbanks, Alaska 99706
Leonard N. Bebchick, Martin, Whitfield, Smith & Bebchick, 1701 Pennsylvania Ave. NW., Suite 1102, Washington, D.C 20006
Raymond J. Vecci, Vice President, Planning & Assistant to the President, Alaska Airlines, Inc., Seattle-Tacoma International Airport, Seattle, Washington 98188
Marshall S. Sinick, Fisher, Gelband and Sinick, Suite 440, 2020 K Street, NW., Washington, D.C. 20006
Air North d.b.a. Yukon Air Service, Box 60054 Fairbanks, AK 99701
Michael J. Roberts, Verner, Liipfert, Bernhard and McPherson, Suite 1100, 1660 L Street, NW., Washington, D.C. 20036
Mr. Howard G. Fowler, President, Kodiak-Western Alaska Airlines, Inc., P.O. Box 2456, Kodiak, Alaska 99615
Mr. Andrew E. Hoge, Hoge & Lekisch, 437 "E" Street, Suite 500, Anchorage, Alaska 99501
Ms. Debbie Pickworth, Comptroller, Kodiac-Western Alaska Airlines, Inc., 2015 Merrill Field Drive, Anchorage, Alaska 99501
Mr. Richard F. Galleher, President, Munz Northern Airlines, Inc., P.O. Box 790, Nome, Alaska 99762
Mr. James J. Flood, President, Wien Air Alaska, Inc., 4100 W. International Airport Road, Anchorage, Alaska 99520
Mr. Theodore I. Seamon, Seamon, Wasko & Ozmont, 1211 Connecticut Ave. NW., Suite 300, Washington, D.C. 20036
Mr. Larry Ledlow, President, Western Yukon Air, P.O. Box 131, St. Marys, Alaska 99558
Mr. Edwin O. Bailey, Kirkland and Ellis, 1776 K Street NW., Washington, D.C. 20006
Mr. Robert A. Scherr, Room 9417, U.S. Postal Service, Washington, D.C. 20260
Mr. Harold E. Mesirow, Lillick McHose & Charles, 1333 New Hampshire Ave. NW., Washington, D.C. 20036
Mr. R. D. Reeve, President, Reeve Aleutian Airways, Inc., 4700 W-International Airport Road, Anchorage, Alaska 99502
Mr. Robert G. Cook, Diemler & Diekemper, Inc., 1435 Powhatan Street, Alexandria, Virginia 22314

Service List, Dockets 38019 and 38961

Mr. Jerry G. Barnes, Staff Vice President, CAB & Regulatory Matters, Wien Air Alaska, Inc., 4100 W. International Airport Rd., Anchorage, Alaska 99502
Mr. Irving Saginor, S. E. Colker & Associates, Inc., 1330 New Hampshire Ave. NW., Suite 114, Washington, D.C. 20036
Ms. Katharine W. Carpenter, Beauvais, Roberts and Kurth, 1250 Connecticut Avenue NW., Suite 200 Washington, D.C. 20036
Mr. George R. Short, Controller Air North, P.O. Box 60054, Fairbanks, Alaska 99701
Mr. Lance Wells, Esq., General Counsel, Sea Airmotive, Inc., P.O. Box 6003, Anchorage, Alaska 99502
Mr. Jeffrey L. Johnson, Vice President Controller, Alaska International Air, Inc., P.O. Box 60099, Fairbanks, Alaska 99701
Mr. Marvin A. Sprunk, Vice President Administration, Alaska International Air, Inc., P.O. Box 6769, Anchorage, Alaska 99502
Mr. Alfred R. Stout, Consultant, 710 Piney Wood Circle, California, Maryland 20619
Mr. Richard P. Taylor, Steptoe & Johnson, 1250 Connecticut Avenue NW., Washington, D.C. 20036
Mr. Robert Reed Gray, Esq., Hale, Russell & Gray, 1025 Connecticut Avenue NW., Washington, D.C. 20036

[FR Doc. 81-17973 Filed 6-16-81; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Toy Balloons and Playballs From Mexico; Dismissal of Countervailing Duty Petition

AGENCY: International Trade Administration, Commerce.

ACTION: Dismissal of Countervailing Duty Petition.

SUMMARY: This notice is to advise the public that a petition has been received requesting that countervailing duties be imposed with respect to the importation of toy balloons and playballs from Mexico. The petition does not properly allege the basis upon which countervailing duties may be imposed and is therefore being dismissed and the proceeding terminated.

EFFECTIVE DATE: June 17, 1981.

FOR FURTHER INFORMATION CONTACT: Louis Apple, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202-377-1279).

SUPPLEMENTARY INFORMATION: On May 14, 1981, we received a petition from counsel for the National Latex Products Company ("NLP") of Ashland, Ohio. The petition alleges that Mexican producers and exporters of toy balloons (including punchballs) and playballs receive subsidies. It contains information concerning alleged subsidies, but does not contain any information alleging injury to an industry in the United States.

Scope of Petition

The merchandise covered by the petition consists of toy balloons (including punchballs) and playballs. Balloons and punchballs are currently classifiable under TSUSA number 737.9535, and playballs under TSUSA number 735.0990. These products enter the United States duty-free under the Generalized System of Preferences.

Ballons and punchballs are inflatable, thin-walled articles made by dipping non-porous forms (called "mandrels") in natural latex. Punchballs have slightly thicker walls than balloons and are sold packaged with bands.

A playball is a hollow sphere produced from polyvinyl chloride (a thermoplastic resin) and other thermoplastics that will bounce when inflated with air and which yields diameters from 4 to 20 inches. Playballs are not nylon-wound or made of rubber, and are not to be confused with sportballs (used in athletic activities).

The alleged manufacturers of these products are Latex Occidental, S.A. (balloons and punchballs), and Industrias Salver (playballs), both located in Guadalajara, Mexico.

Dismissal of Petition

Section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) ("the Act"), applies to this investigation, as Mexico is not a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. 1671(b)). Section 303(a)(2) states:

> In the case of any imported article or merchandise which is free of duty, duties may be imposed under this section only if there are affirmative determinations by the Commission under subtitle IV of this chapter; except that such a determination shall not be required unless a determination of injury is required by the international obligations of the United States.

Petitioner alleges that the United States has no "international obligation" to provide an injury determination for duty-free Mexican merchandise; the petition contains no information alleging injury to the United States industry from Mexican exports of the subject product.

We conclude that in this case an allegation of injury to the United States industry is a necessary component of the petition. This conclusion is based on the decision by the United States Department of the Treasury in a 1978 case involving other Mexican duty-free products. In the August 28, 1978, notice

of initiation of this case (43 FR 38482) Treasury stated:

The imported merchandise classifiable under item numbers 705.3000, 791.7620, and 791.7660 of the tariff schedules of the United States, annotated (TSUSA) are eligible for duty-free entry under the generalized system of preferences. In the event that it becomes necessary to refer this case to the U.S. International Trade Commission pursuant to section 303(a)(2), Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(2)), there is evidence on record concerning injury, or likelihod of injury, to an industry in the United States with regard to these duty-free imports.

In the absence of any subsequent action prior to this petition rendering the 1978 decision inapplicable to cases involving duty-free imports from Mexico, we have determined in this case that countervailing duties may not be imposed unless there is an affirmative determination concerning injury. Because of the absence of any allegation of injury, the petition, which is satisfactory otherwise, does not allege the elements necessary for the imposition of countervailing duties. We are dismissing the petition and terminating the proceeding without prejudice to the right of the petitioner to submit a revised petition that includes the necessary allegation and supporting information on injury.

B. Waring Partridge III,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-17976 Filed 6-16-81; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Appointment of Member To Limited Performance Review Board

In a notice published in the Federal Register on October 5, 1979 (44 FR 57462), announcement was made of the establishment and purpose of the Limited Performance Review Board (LPRB). That notice and a notice in the Federal Register dated October 17, 1979 (44 FR 59930) announced the membership of the LPRB and the terms of its three members.

This notice announces the appointment to the LPRB, in place of one of the members who has resigned, of the individual whose name, title and term is set out below: Dr. William P. Raney, Assistant Associate Administrator for Space and Terrestial Applications (Programs), National Aeronautics and Space Administration, Washington, D.C. 20546, Term—2 years.

Persons desiring any further information about the LPRB or its membership, may contact Elizabeth W. Stroud, Chief, Personnel Division, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3555.

Dated: June 12, 1981.

Ernest Ambler,

Director.

[FR Doc. 81-17954 Filed 6-16-81; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

June 9, 1981.

The USAF Scientific Advisory Board Tactical Cross Matrix Panel will meet at HQ TAC Langley AFB, Virginia on July 7-8, 1981. The meeting will convene at 8:30 a.m. and adjourn at 5:00 p.m. each day.

The Panel will receive a review and update of Tactical Air Command ongoing programs and developments. The briefings and discussions will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 81-17906 Filed 6-16-81; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Board of Visitors, United States Military Academy; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy
Dates of Meeting: 3-5 August 1981
Place of Meeting: West Point, New York
Time: At West Point:
1300-1700, 3 Aug. Optional orientation for new Board members (West Point)
0830-1130, 4 Aug. Observe Cadet Basic Training (West Point)
1130-1630, 4 Aug. Observe Cadet Field Training (Camp Buckner)
0830-1200, 5 Aug. Board Discussions (Lee Hall)
1410-1530, 5 Aug. Board Discussions (Washington Hall)
Proposed Agenda: Inquiry about the cadet training to include Cadet Field Training, Cadet Basic Training, honor instruction, leadership preparation for service in the Army, and other matters relating to the Military Academy that the Board decides to consider.
All proceedings are open. For further information, contact COL D. P. Tillar, Jr. United States Military Academy, West Point, New York, telephone 914-938-2785/4723.

For the Board of Visitors:

D. P. Tillar, Jr.,

Col, GS, Executive Secretary, USMA Board of Visitors.

[FR Doc. 81-17895 Filed 6-16-81; 8:45 am]

BILLING CODE 3710-08-M

Defense Communications Agency

Scientific Advisory Group; Closed Meeting

The DCA Scientific Advisory Group will hold closed meetings on 29 and 30 June 1981. The 29 and 30 June meetings will be at the Defense Communications Agency, Director's Management Information Center at Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Virginia.

The subject of the meetings will be DCA Goals and Reorganization.

Any person desiring information about the Advisory Group may telephone (Area Code 202-692-1765) or write Chief Scientist—Associate Director, Technology, Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Virginia 22204.

These meetings are closed because the material to be discussed is classified requiring protection in the interest of National Defense. (5USC522b(c)(1))

Irwin L. Lebow,

Chief Scientist—Associate Director, Technology.

[FR Doc. 81-17898 Filed 6-16-81; 8:45 am]

BILLING CODE 3610-05-M

Office of the Secretary

DOD Advisory Group on Electronic Devices; Advisory Committee Meeting

Correction

In FR Doc. 81-17595, published on page 31305, on Monday, June 15, 1981, in the first paragraph, in the fourth line, "July 19-30" should be corrected to read "July 29-30".

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Privacy Act of 1974; Proposed Establishment of a New System of Records

AGENCY: Department of Energy, Bonneville Power Administration.

ACTION: Proposed establishment of a new system of records subject to the Privacy Act of 1974 (Pub. L. 93–579; 5 U.S.C. 552a).

SUMMARY: The Department of Energy (DOE) proposed to establish a system of records in order to carry out Bonneville Power Administration's (BPA) conservation programs. In cooperation with various utilities; Federal, State, and local organizations; and other groups, BPA will undertake to accomplish various conservation and renewable resource measures in the Pacific Northwest. Public comment is sought on the system of records, and, in particular, on the routine uses of the records, as required by Subsection (e)(11) of the Privacy Act (5 U.S.C. 552a(e)(11)).

DATE: Written comments must be received within 30 days after publication.

ADDRESS: Comments and requests for further information should be directed to: Mr. John L. Elizalde, Bonneville Power Administration, PEP, P.O. Box 3621, Portland, Oregon, 97208.

SUPPLEMENTARY INFORMATION: The Bonneville Power Administration of the Department of Energy proposes to establish a new system of records, to be entitled "Bonneville Power Administration Conservation Program." As a part of this overall program, BPA will implement individual measures, both pilot and regional in nature. Authority for these measures stems from the Bonneville Project Act of 1937 (16 U.S.C. Ch. 12B) as amended by the Flood Control Act of 1944 (16 U.S.C. 825s), the Federal Columbia River Transmission Act (16 U.S.C. Ch. 838), and the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 96–501). These measures involve conservation and energy efficiency in residential, agricultural, commercial, and industrial sectors; direct application of wind, geothermal, and solar resources; and technical applications of other energy-conserving or energy-efficiency-improving techniques. These programs will involve such measures as zero-interest loans for weatherization; other direct incentives for weatherization, water heater wraps, shower flow restrictors, pump testing, solar water heating incentives, passive solar home construction incentives, commercial information and audit services, lighting replacements, and other programs as developed.

The records in the system will be disclosed as follows: (1) records will be made available to BPA for audit and program evaluation purposes; (2) records, in aggregated form, will become a part of a public data base on conservation and direct application renewable resource measures; (3) records will be made available to authorized personnel for purposes of installation or repair to any equipment installed under the program; (4) records will be used for verification or correction of services rendered under the program; (5) records will be used for purposes of load forecasting; (6) records will become part of a data base used for program publicity; and (7) information regarding buildings will be made available to subsequent purchasers of the buildings. Information may also be released to the public for purposes of survey and program analysis.

The system of records will be established and maintained pursuant to the Bonneville Project Act of 1937 (16 U.S.C.Ch. 12B), as amended by the Flood Control Act of 1944 (16 U.S.C. 825s), the Federal Columbia River Transmission Act (16 U.S.C. 838), and the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 96–501). The collectio of data and maintenance of the system of records are incidental to the performance of the overall Bonneville Power Administration Conservation Program, the objective of which is (1) to acquire energy resources through energy conservation and direct application renewable resource measures; (2) to determine what cost-effective conservation and direct application renewable resource measures should be installed or adopted under different circumstances; and (3) to provide incentives for the installation of such measures.

The establishment of this system of records should have a mininal effect on the personal privacy of participants. Although BPA, a utility, or other participant may directly contact individuals to provide program information, participation in the program is voluntary and will be initiated by the individuals.

BPA is expressly authorized in the Pacific Northwest Electric Power Planning and Conservation Act to cooperate with its customers and governmental authorities to achieve conservation. Although BPA may deal directly with State and local governments in various program settings, there will be no adverse impact on the principles of federalism.

Some States in the region currently offer financial incentives such as tax credits or deductions for some conservation or direct application renewable resource measures. The BPA program will provide additional incentives in more program areas to energy consumers in the region.

Safeguards

Records will be safeguarded in several ways: (1) access to records will be limited to those personnel who have a need for the data, and (2) records will be locked when unattended. Records may also be maintained in a "protected" computer file. In view of these provisions, more elaborate security measures need not be considered.

A report on New Systems has been submitted to the Office of Management and Budget (OMB) as required by Section 3(o) of the Privacy Act (5 U.S.C. section 552a(o)) and OMB Circular No. A–108, as amended.

Whenever applicable, information to be maintained in the system will be collected using a data collection form which has been submitted to OMB for clearance under the Federal Reports Act and OMB Circular No. A–40, as amended.

The text of the system notice is set forth below.

Dated: June 10, 1981.

DOE–74

William S. Heffelfinger,
Assistant Secretary, Management and Administration.

SYSTEN NAME:

Bonneville Power Administration Conservation Program

SYSTEM LOCATION:

Bonneville Power Administration, Division of Conservation, P.O. Box 3621, Portland, Oregon 97208; and utilities or other entities which may participate in the program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any participant in a Bonneville conservation program will be included in the system of records. For example, participants include but are not limited to, residential consumers, commercial consumers, contractors, utility personnel, and personnel of other implementing entities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information about individual energy consumption including names,

addresses and other demographic data; characteristics of buildings; characteristics about natural phenomenon (such as wind, sunlight, geothermal activity, etc.); structural aspects related to thermal efficiency; information as to type, location, and number of installed measures; performance data; information relating to BPA financial assistance to consumers; and information as to auditor/analyst training.

AUTHORITY FOR MAINTENANCE OF SYSTEM:

Bonneville Project Act of 1937, 16 U.S.C. Chapter 12B (1976), as amended by the Flood Control Act of 1944 (16 U.S.C. section 825s), the Federal Columbia River Transmission System Act of 1974 (16 U.S.C. Chapter 838), and the Pacific Northwest Electric Power Planning and Conservation Act (Pub. L. 96–501).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information will be maintained by BPA, a utility, or other entity administering the program and will be used (1) to determine eligibility for and to account for BPA payments; (2) to evaluate the electric energy displacement for conservation and direct application renewable resource measures; (3) to evaluate the performance of specific measures; (4) to assess potential regional impact of individual pilot measures; (5) to make recommendations to consumers concerning energy efficiency; (6) to assist in preparing detailed resource assessments; (7) to assist in installation or repair of measures; and (8) to assist in verification or correction of services rendered under this program. Information may also be released to the public in aggregated form for purposes of survey and program analysis. Except in cases (1), (7), and (8), above, information will not be released in other than aggregated form without the prior consent of the individual.

BPA will use this information in statistical form (1) to evaluate the overall effectiveness of the program, and (2) to provide and make available a public data base which will be used to plan and analyze appropriate conservation and direct application renewable resource measures for firms and residents of the Pacific Northwest.

The utility or other entity administering the program will make information available (1) in aggregated form to Federal, State, and local agencies and organizations with an interest in conservation and direct application renewable resource measures, and (2) to BPA for audit and program evaluation purposes. When necessary for accomplishing a measure, the utility or other entity will make information available to contractors for use in preparing and submitting bids for work, and to repair persons called upon to evaluate, correct deficiencies in, or otherwise repair installed measures. The utility or other entity may disclose site or building-specific information to subsequent purchasers.

POLICIES, PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained (1) on paper in file folders, and (2) on computer tape or disc.

RETRIEVABILITY:

Records maintained by the utility are indexed by a utility account number assigned to each utility customer. Records are indexed by other assigned numbers when maintained at a location other than a utility.

SAFEGUARDS:

Access to and use of these records is limited to those persons whose official duties require such access. All files are locked or otherwise secure when unattended.

RETENTION AND DISPOSAL:

A records retention and disposal authorization will be developed and issued in the effective edition of Order DOE 1324.2, Records Disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Mr. John L. Elizalde, Chief, Program Branch, PEP, Division of Conservation, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, 503–234–3361, Ext. 4086.

NOTIFICATION PROCEDURE:

Individuals about whom information is maintained in this system of records are aware of that fact through participation in the program. However, inquiries may be addressed to the System Manager named above. Requests should include the individual's full name and address. Procedures for existing Privacy Act rights are contained in DOE's Privacy Act regulations, 10 CFR 1008, 45 FR 61576, September 16, 1980.

RECORD ACCESS PROCEDURES:

Requests for access may be directed to the System Manager named above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information about them maintained in this system should direct their request to the System Manager named above.

RECORD SOURCE CATEGORIES:

The information in this system is solicited from the individual to whom the record pertains. Information will also be gathered from data collection and other monitoring equipment such as electric meters, flowmeters, air quality monitors, and so forth. Information will be gathered by representatives of the utilities or by others at BPA's request.

[FR Doc. 81–18050 Filed 6–16–81; 8:45 am]
BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Case No. 52031–0681–01–42]

Availability of Tenative Staff Analysis

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of availability of tentative staff analysis.

SUMMARY: On December 30, 1980, Utilities Commission of the City of New Smyrna Beach (New Smyrna Beach), Florida petitioned the Economic Regulatory Administration (ERA) of the Department of Energy for an order exempting its Swoope Unit #1 powerplant from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) which prohibit natural gas use in certain existing electric powerplants. ERA's final rules implementing FUA, including criteria to be used in petitioning for exemptions from the prohibitions of FUA, were issued on May 30, 1980, and August 1, 1980, and were published in the **Federal Register** on June 6, 1980 (45 FR 38276) and August 12, 1980 (45 FR 53682). New Smyrna Beach has requested a permanent exemption under Section 312(h) of FUA for use of natural gas by a powerplant with capacity of less than 250 million Btu's per hour for its Swoope Unit #1.

ERA accepted the petition on February 26, 1981, and published notice of its acceptance in the **Federal Register** on March 6, 1981, at 46 FR 15538. The Notice of Acceptance provided for a 45-day comment period during which time interested persons could submit written comments and request a public hearing on the petition for exemption. That period expired on April 20, 1981. No comments were received, nor was a public hearing requested.

Based upon the ERA staff's review and analysis of the information presently contained in the record of this proceeding, a Tentative Staff Analysis

has been completed. This analysis recommends that ERA issue an order which would grant the requested exemption. Pursuant to 10 CFR 501.64, notice of the availability of the Tentative Staff Analysis is hereby issued; and, 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 on the Tentative Staff Analysis are due on or before July 1, 1981. A request for public hearing must also be made within the same 14-day comment period.

ADDRESSES: Fifteen copies of written comment or a request for public hearing should be submitted to: Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461.

Case Number ERA–FC–52031–0681–01–42 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT: Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B–110, Washington, D.C. 20461, (202) 653–4055.

James W. Workman, Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room 3002F, Washington, D.C. 20461, (202) 653–4268.

Henry K. Garson, Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B–178, Washington, D.C. 20585, (202) 252–2967.

ERA will issue a final order granting or denying the New Smyrna Beach petition for permanent exemption within six months after the public comment period provided for in this notice has expired, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the **Federal Register.**

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room B–110, 2000 M Street, NW., Washington D.C., Monday through Friday, 8:00 a.m.–4:30 p.m.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA) published final rules on June 6, 1980, and August 12, 1980, implementing provisions of Title III of the Powerplant and Industrial Fuel Use Act of 1978 (FUA). Title III of FUA prohibits the use of natural gas as a primary energy source in an existing electric powerplant on or after January 1, 1990, and prohibits the use of natural gas as a primary energy source in an existing electric powerplant unless such powerplant burned natural gas as a primary energy source in 1977, and then in no proportion greater than the average yearly proportion which the powerplant used in calendar years 1974 through 1976, unless an exemption has been granted by ERA. Swoope Unit #1 is a 7.5 MW electric powerplant that uses natural gas and is subject to the Title III prohibitions on natural gas use.

Swoope Unit #1 is currently allowed to burn natural gas until October 31, 1981, under a special temporary public interest exemption which ERA granted to the Utilities Commission of the City of New Smyrna Beach (New Smyrna Beach) Florida, pursuant to 10 CFR Part 508. On March 6, 1981, ERA issued a Notice of Acceptance of New Smyrna Beach's petition for exemption for Swoope Unit #1.

Eligibility and evidentiary requirements governing the permanent exemption for use of natural gas by a powerplant with capacity of less than 250 million Btu's per hour are set forth at 10 CFR 504.60. Under 10 CFR 504.60(a), a petitioner may show eligibility for this exemption by making certain certifications. New Smyrna Beach has made the following certifications in its petition:

(1) Unit #1 has a design capability of consuming fuel at a fuel heat input rate of less than 250 million Btu's per hour;

(2) Unit #1 was a baseload powerplant on April 20, 1977;

(3) Unit #1 is not capable of burning solid coal, and no suitable coal derivative is available; and

(4) use of a mixture of an alternate fuel and natural gas or petroleum for which an exemption would be available is not technically or economically feasible in Unit #1.

The ERA staff has examined the foregoing certifications made by New Smyrna Beach and has determined that they fulfill the requirements of 10 CFR 504.60(a). Accordingly, the ERA staff has completed a Tentative Staff Analysis which recommends that ERA issue an order granting New Smyrna Beach the requested exemption for Swoope Unit #1. This exemption will be subject to the following terms and conditions.

Terms and Conditions: Section 314(a) of FUA authorizes ERA to grant exemptions which such terms and conditions which ERA deems as appropriate. New Smyrna Beach has stated that if such a permanent exemption is granted to Unit #1, it will accept the terms and conditions of 10 CFR 504.60(b). Such terms and conditions, enumerated below, will accordingly be attached to any order which would grant the requested exemption.

(1) All steam pipes on Unit #1 must be insulated, and all steam traps on Unit #1 must be properly maintained.

(2) This exemption for Unit #1 may only apply to prohibitions under Section 301 of FUA and prohibitions established by final rules or orders issued before January 1, 1990.

The Tentative Staff Analysis does not constitute a decision by ERA to grant the requested exemption. Such a decision will be made in accordance with 10 CFR 501.68 on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Analysis.

Issued in Washington, D.C. on June 5, 1981.

Robert L. Davies,

Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-17922 Filed 6-15-81; 8:45 am]

BILLING CODE 6450-01-M

Douglas R. Cummings; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Office of Enforcement (OE), Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: June 5, 1981.

FOR FURTHER INFORMATION CONTACT: Crude Producers Branch, Attn: John Marks, Office of Enforcement, 2000 M Street, N.W., Room 5204, Washington, D.C. 20461, (202) 653–3517.

SUPPLEMENTARY INFORMATION: On April 29, 1980, the OE published notification in the **Federal Register** that it executed a Consent Order with D. R. Cummings, (Cummings) of Oklahoma City, Oklahoma on April 16, 1980, 45 FR 28414, 1980. Interest persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund

paid by Cummings pursuant to the Consent Order were requested to submit notice of their claims to the OE.

One comment was received. The commentor presented no new evidence which was materially inconsistent with evidence upon which the DOE's acceptance of the Consent Order was based. Therefore, the Consent Order was not modified.

Pursuant to the Consent Order, Cummings is refunding the sum of $14,000, plus interest, by certified checks made payable to the United States Department of Energy in 24 monthly equal installments. All such funds received by DOE have been placed into a suitable account pending determination of their proper distribution. The following company submitted a notice of claim to the OE:

Mobil Oil Corporation

Action Taken: The OE is unable, readily, to identify the persons entitled to receive the $14,000, plus interest, or to ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE has petitioned the Office of Hearings and Appeals (OHA) on June 5, 1981 to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the remaining refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 10 day of June, 1981.

Adna Day,

Acting Director, Program Operations Division.

[FR Doc. 81-17919 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-01-M

N. C. Ginther; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on consent order.

SUMMARY: The Office of Enforcement (OE), Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: June 5, 1981.

FOR FURTHER INFORMATION CONTACT:

Crude Producers Branch, Attn: John Marks, Office of Enforcement, Room 5002, 2000 M Street, N.W., Washington, D.C. 20461, Telephone Number (202) 653-3517.

SUPPLEMENTARY INFORMATION: On November 26, 1979, the OE published notification in the **Federal Register** that it executed a Consent Order with N. C. Ginther, (Ginther) of Houston, Texas on November 14, 1979, 44 FR 67500 (1979). Interested persons were invited to submit comments concerning the terms, conditions, or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by Ginther pursuant to the Consent Order were requested to submit notice of their claims to the OE.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. Therefore, the Consent Order was not modified.

Pursuant to the Consent Order, Ginther refunded the sum of $40,000 by certified checks made payable to the United States Department of Energy in 3 equal quarterly installments. This sum was received by DOE and has been placed into a suitable account pending determination of its proper distribution. The OE received no notices of claim to the refunds.

Action Taken: The OE is unable, readily, to identify the persons entitled to receive the $40,000 or ascertain the amounts of refunds that such persons are entitled to receive. Therefore, the OE has petitioned the Office of Hearings and Appeals (OHA) on June 5, 1981 to implement Special Refund Procedures pursuant to 10 CFR 205. 280 *et seq.* to determine the identity of persons entitled to the refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 10th day of June, 1981.

Adna Day,

Acting Director, Program Operations Division.

[FR Doc. 81-17920 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-01-M

Powerplant and Industrial Fuel Use Act of 1978; Withdrawal of Acceptance of Petition for Exemption

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice that it has withdrawn a previously issued order granting a temporary public interest exemption pursuant to section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978, U.S.C. 8301 et seq. (FUA or the Act) and 10 CFR Part 508. An exemption from the prohibitions of section 301(a)(2) and (3) of the Act was granted to the following petitioner:

Docket No.	Petitioner	Generating station	Powerplant identification
66004-9117-21-41	Rochester Public Utilities	Cascade Creek	CT 1.

ERA previously published in the **Federal Register** on April 25, 1980 (45 FR 27976) an order granting an exemption to the above-mentioned petitioner. The petitioner had filed for a temporary public interest exemption to use natural gas to displace oil for electric power generation pursuant to 10 CFR Part 508.

In the previously accepted petition, the petitioner represented that the powerplant for which the exemption was sought, was subject to the prohibitions of either section 301(a)(2) or (3) of FUA. Based upon this information, ERA published a final order granting the exemption in the **Federal Register.**

The petitioner listed above has now informed ERA that it wishes to withdraw the petition for the above listed powerplant because it cannot justify the capital investment necessary to burn natural gas. In light of this information, ERA hereby publishes this notice of withdrawal.

Any questions regarding this temporary public interest exemption action should be directed to Mr. James W. Workman, Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, Room 3112D, 2000 M Street, NW., Washington, D.C. 20461 (202) 653-4268.

Issued in Washington, D.C. on June 11, 1981.

Robert L. Davies,

Director, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 81-17921 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. RP80-83-003 & RP80-111-002]

ANR Storage Corp.; Filing of Tariff Sheets by ANR Storage Corp.

June 11, 1981.

Take notice that ANR Storage Corporation (ANR) on June 1, 1981, tendered for filing proposed tariff sheets in accordance with the provisions of the Stipulation and Agreement as approved by the Federal Energy Regulatory Commission in a letter issued on April 3, 1981. The proposed tariff sheets reflect a reduction in the interest component of rate of return from an annual rate of 20.74% (previously effective) to an annual rate of 18%. ANR states that the basis of the change in rates was adopted in order to reflect the actual annualized cost of debt not in excess of 18% per annum for which ANR is liable on the date the new tariff sheets are filed. ANR claims that at the present time its cost of debt is approximately 20% and therefore, has used a rate of 18% in computing the proposed tariff sheets. The proposed tariff sheets are proposed to become effective on June 1, 1981. The proposed tariff sheets also contain, pursuant to Article II of the approved Stipulation and Agreement, new Sections 6.2 and 6.3 which represent ANR's proposed tariff.

A copy of the filing has been served on all ANR's customers in Docket Nos. RP80-83-003 and RP80-111-002.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 25, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17979 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1491-001]

Arthur R. Ehrnschwender; Filing

June 12, 1981.

The filing individual submits the following:

Take notice that on May 29, 1981, Arthur R. Ehrnschwender filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Senior Vice President, Cincinnati Gas & Electric Company
Senior Vice President, Union Light, Heat & Power Company and Director
Senior Vice President, Miami Power Corporation

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17995 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-513-000]

Boston Edison Co.; Filing

June 11, 1981.

The filing Company submits the following:

Take notice that Boston Edison Company (Boston Edison) on June 2, 1981, tendered for filing a proposed rate schedule consisting of a contract for the sale of unit capacity to the North Attleboro (Massachusetts) Electric Department. The proposed effective date of the contract is February 4, 1981.

Copies of the filing were served on the North Attleboro Electric Department and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to the prroceeding. Any person wishing to make protestants parties to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17980 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-520-000]

Commonwealth Electric Co.; Filing

June 12, 1981.

The filing Company submits the following:

Take notice that on June 1, 1981, Commonwealth Electric Company (Commonwealth) tendered for filing a Notice of Termination of its currently-effective Rate Schedule FERC No. 38. Said Rate Schedule consists of a unit power sales agreement dated October 20, 1989 between Commonwealth and the Massachusetts Municipal Wholesale Electric Company (MMWEC) for the sale by Commonwealth of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2.

Commonwealth states that Rate Schedule FERC No. 38 became effective on November 1, 1980 and terminated by its own provisions on April 30, 1981. Commonwealth requests the Commission to waive its Regulations as provided at Section 35.15 and to permit the tendered Notice of Termination to become effective as of April 30, 1981.

Commonwealth further states that a copy of this filing has been mailed to MMWEC.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17996 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-520-000]

Commonwealth Electric Co.; Filing

June 12, 1981.

The filing Company submits the following:

Take notice that on June 1, 1981, Commonwealth Electric Company (Commonwealth) tendered for filing a Notice of Termination of its currently-effective Rate Schedule FERC No. 38. Said Rate Schedule consists of a unit power sales agreement dated October 20, 1989 between Commonwealth and the Massachusetts Municipal Wholesale Electric Company (MMWEC) for the sale by Commonwealth of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2.

Commonwealth states that Rate Schedule FERC No. 38 became effective on November 1, 1980 and terminated by its own provisions on April 30, 1981. Commonwealth requests the Commission to waive its Regulations as provided at Section 35.15 and to permit the tendered Notice of Termination to become effective as of April 30, 1981.

Commonwealth further states that a copy of this filing has been mailed to MMWEC.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17996 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-63-000]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

June 10, 1981.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on May 19, 1981 tendered for filing a revision to its General Terms and Conditions, specifically Section 12.6(a) Flow Through of Supplier Refunds, General Rule. The revision, shown on Fifth Revised Sheet No. 72, provides for the flow through of all refunds received without restriction of jurisdictional service dates.

Consolidated has been, since January 1, 1980, flowing through all supplier refunds to its jurisdictional customers by check, or by other means agreed upon without regard to applicable service dates. Consolidated proposes to revise its tariff provision to provide for such flow through.

Consolidated requests a waiver of the Commission's Rules and Regulations, specifically § 154.22, Notice Requirements, and any other of the Rules and Regulations as may be deemed necessary in order to permit Fifth Revised Sheet No. 72 to become effective June 1, 1981.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested State Commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 17, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17987 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP80-84, et al.]

Eastern Shore Natural Gas Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

June 11, 1981.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before June 25, 1981. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
May 1, 1981	Eastern Shore Natural Gas Co	RP80-84	Report.
May 18, 1981	Alabama Tennessee Natural Gas Co	RP73-77	Report.
May 22, 1981	Columbia Gas Transmission Co	RP80-115-004 and RP73-65.	Report.
May 27, 1981	Consolidated Gas Supply Corp	RP80-61-009	Amended report.
May 29, 1981	El Paso Natural Gas Co	CP77-289	Plan.
June 4, 1981	Eastern Shore Natural Gas Co	RP77-108	Report.

[FR Doc. 81-17982 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP80-63]

El Paso Natural Gas Co.; Withdrawal of General Rate Increase Filing

June 10, 1981.

Take notice that on June 3, 1981, El Paso Natural Gas Company ("El Paso"), a Delaware corporation, whose mailing address is Post Office Box 1492, El Paso, Texas 79978, filed a notice of withdrawal of its proposed general rate increase filing of December 31, 1979 at Docket No. RP80-63, pursuant to Federal Energy Regulatory Commission ("Commission") order of May 30, 1980 at Docket No. RP79-12 (Extension), Section 1.11(d) of the Commission's Rules of Practice and Procedure and § 154.66(a) of the Commission's Regulations Under

the Natural Gas Act, all as more fully set forth in the document which is on file with the Commission and open to public inspection.

The notice of withdrawal of general rate increase filing states that El Paso gave notice of a change in rates and changes in certain tariff provisions on December 31, 1979, for natural gas service rendered to jurisdictional customers. The changes would have affected those customers served under all rate schedules contained in Original Volume No. 1 and certain rate schedues contained in Third Revised Volume No. 2 and Original Volume No. 2A of El Paso's FERC Gas Tariffs. The Commission suspended the proposed rate change and set the matter for hearing by order dated January 30, 1980.

On January 16, 1980 El Paso filed at Docket No. RP79–12 (Extension) a Stipulation and Agreement as Restated and Amended ("Extension Agreement"), which was designed to extend the basic provisions of El Paso's Original Stipulation and Agreement ("Original Agreement") dated May 31, 1979. The Original Agreement was approved by Commission letter order dated July 20, 1979, at Docket No. RP79–12. Under the offer of settlement in said Extension Agreement, El Paso stated that it would be able to forego the general rate increase pending at Docket No. RP80–63 if the Commission were to approve the Extension Agreement as filed. El Paso also stated that upon receipt of a final Commission order no longer subject to judicial review approving the Extension Agreement, El Paso would promptly withdraw its general rate increase filing pending at Docket No. RP80–63. By order issued May 30, 1980 at Docket No. RP79–12 (Extension), the Commission approved the Extension Agreement.

The City of Willcox, Arizona and Arizona Electric Power Cooperative, Inc. (jointly referred to herein as "AEPCO") petitioned for review of the Commission's order issued May 30, 1980 at Docket No. RP79–12 (Extension) before the United States Court of Appeals for the Fifth Circuit at Case No. 80–1973. However, by letter dated May 6, 1981 AEPCO filed a motion before the United States Court of Appeals for the Fifth Circuit to dismiss the proceedings at Case No. 80–1973. AEPCO's motion was granted by the United States Court of Appeals for the Fifth Circuit by order issued May 27, 1981. El Paso now states that the Extension Agreement is final and no longer subject to judicial review. Accordingly, El Paso gave notice of withdrawal of its proposed general rate increase filing of December 31, 1979 at Docket No. RP80–63.

El Paso states that copies of the filing have been served upon all parties of record in Docket No. RP80–63 and, otherwise, upon all customers served from El Paso's interstate transmission system and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said notice of withdrawal of general rate increase filing should, on or before June 22, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–17998 Filed 6–16–81; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER81–512–000]

Empire District Electric Co.; Filing

June 12, 1981.

The filing Company submits the following:

Take notice that The Empire District Electric Company (Empire) on June 2, 1981, tendered for filing proposed changes in its FERC Electric Service Tariff, Volume No. One. The proposed changes would increase revenues from present jurisdictional sales and service the Sekan Electric Cooperative, Inc., Girard, Kansas by $84,298 based on the 12-month period ending February 28, 1978.

Empire states that the presently effective rates are based on contractual agreements made up to fifteen years ago. Since that time Empire has experienced substantial increase in all elements of its cost, including fuel, labor, interest, taxes and construction to provide additional capacity and meet environmental requirements. Empire proposes an effective date of July 18, 1981.

Copies of the filing were served upon the public utility's jurisdictional customers and the Kansas State Corporation Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–17983 Filed 6–16–81; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. TA81–2–13–000 (PGA81–2)]

Gas Gathering Corp.; Proposed Change in Rates Under Purchased Gas Adjustment Clause Provision

June 10, 1981.

Take notice that Gas Gathering Corporation (GGC) on June 1, 1981, tendered for filing proposed changes in its FERC Gas Tariff providing for increased charges to Transcontinental Gas Pipe Line Corporation (Transco), its sole jurisdictional customer, under GGC's PGA clause. The proposed changes would increase the rate charged Transco by 10.854235 cents per Mcf from those rates presently in effect. The proposed changes are proposed to be made effective July 1, 1981. GGC states that the filing is made to allow it to recover increased current costs of purchased gas, and to reduce the balance of its Unrecovered Purchased Gas Cost Account as of March 31, 1981, through a six month surcharge.

A copy of the filing has been served upon Transco.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are

on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17999 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-525-000]

Green Mountain Power Corp.; Filing

June 12, 1981.

The filing Company submits the following:

Take notice that on June 8, 1981, Green Mountain Power Corporation (Green Mountain) tendered for filing an amendment to its December 28, 1978 contract with the Washington Electric Cooperative, Inc. (Co-op) of East Montpelier, Vermont, pertaining to the sale of capacity and associated energy of the Berlin No. 5 gas turbine unit. By this amendment, the terms of the contract are sought to be extended for the following amounts and time periods:

April 24, 1981 through April 30, 1981—
1,500 MW

With its tender, Green Mountain submitted a copy of the amendment, which was executed by both Green Mountain and the Co-op and is dated April 24, 1981.

Green Mountain states that a copy of the filing was sent to the Co-op and to the Vermont Public Service Board.

Green Mountain requests that the Commission waive its notice requirements and permit the generation contract to become effective as of April 24, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18000 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-526-000]

Green Mountain Power Corp.; Filing

June 12, 1981.

The filing Company submits the following:

Take notice that on June 8, 1981, Green Mountain Power Corporation (Green Mountain) tendered for filing an amendment to its contract with the Village of Stowe Water and Light Department (VSWLD) of Stowe, Vermont, pertaining to the sale of capacity and associated energy of the Berlin No. 5 gas turbine unit. By this amendment, the terms of the contract are sought to be extended for the following amounts and time periods:

April 24, 1981 through April 30, 1981—
1,900 KW

With its tender, Green Mountain submitted a copy of the amendment, which was executed by both Green Mountain and the Co-op and is dated April 24, 1981.

Green Mountain stated that a copy of the filing was sent to the Co-op and to the Vermont Public Service Board.

The parties request that the Commission waive its notice requirements and permit the generation contract to become effective as of April 24, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18001 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-506-000]

Iowa-Illinois Gas & Electric Co.; Filing

June 11, 1981.

The filing Company submits the following:

Take notice that Iowa-Illinois Gas & Electric Company, Davenport, Iowa (Iowa-Illinois) on June 1, 1981, tendered for filing Participation Power Transaction No. 2, under an Interchange Agreement of November 15, 1971, as amended, with the City of Geneseo, Illinois (City). The transaction is dated May 27, 1981, and is proposed to become effective August 1, 1981, for a period of 30 months.

Iowa-Illinois states Service Schedule K of the Interchange Agreement provides that transactions for participation power may be negotiated by the parties for each transaction and attached thereto. Iowa-Illinois further states that Transaction No. 2, provides for the sale of 3 MW to City from Iowa-Illinois' shares of Neal Unit 3, Council Bluffs Unit 3 and Ottumwa Unit 1, utilizing weighted cost-based rates related to the participation units, and provides for substitute energy, at Company's option, and establishes rates therefor, qualified in respect of Order No. 84 of this Commission. It is stated that no new or addition facilities are required to effectuate the transaction.

According to Iowa-Illinois, Copies of the filing have been mailed to the City and the Illinois Commerce Commission.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 29, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17984 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-53-000]

Iowa Public Service Co.; Application

June 11, 1981.

Take notice that on June 4, 1981, Iowa Public Service Company (Applicant) filed an application seeking authorization to negotiate the placement of not more than $25 million of First Mortgage Bonds.

Any persons desiring to be heard or to make any protest with reference to said application should on or before June 30, 1981, file with the Federal Energy Regulatory Commission, Washington,

D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). The application is on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17985 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-523-000]

Kansas Gas & Electric Co.; Proposed Tariff Change

June 12, 1981.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company (KG&E) on June 8, 1981, tendered for filing a proposed change in FERC Electric Service Tariff No. 144. The proposed Letter of Intent changes the amount of power delivered to the City under Service Schedule A, Firm Power Service. KG&E proposes an effective date of July 1, 1981.

KG&E states that the Letter of Intent is necessary because the City has requested an increase in firm power service.

Copies of this filing were served upon the City of Burlington, Kansas.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18002 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-524-000]

Kansas Gas & Electric Co.; Proposed Tariff Change

June 11, 1981.

The filing Company submits the following:

Take notice that Kansas Gas and Electric Company (KG&E) on June 8, 1981, tendered for filing a proposed change in its FPC Electric Service Tariff No. 136. The proposed Amendment changes in minimum and maximum amounts of power. KG&E proposes an effective date of May 18, 1981.

KG&E states that the Amendment is necessary because the present demands have been exceeded.

Copies of this filing were served upon The Sedgwick County Electric Cooperative Association, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17986 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4339-000]

Mohawk Energy Corp.; Application for Preliminary Permit

June 11, 1981.

Take notice that Mohawk Energy Corporation (Applicant) filed on March 16, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 4339 to be known as The Upper Mohawk River/State Barge Canal Project located on the New York State Barge Canal and the Mohawk River in or near the Towns of Herkimer, Little Falls, St. Johnsville, Minden, German Flatts, Canajoharie, Palatine, Root, Mohawk, and Florida, in Herkimer and Montgomery Counties, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James D. Krugman, 262 Main Street, Paterson, New Jersey 07505. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed run-of-river project would utilize existing Barge Canal facilities owned by the New York State Department of transportation and would consist of seven developments:

A. The Lock 12 Development comprising: (1) an existing bridge-type movable dam; (2) a reservoir having a surface area of 325 acres at normal pool elevation 278.0 feet m.s.l.; (3) alternate 1 comprising: (a) an intake structure upstream of the dam; (b) a penstock; and (c) a powerhouse; or (4) alternative 2 comprising an intake integral with the dam, a penstock, and a powerhouse; (5) six generating units having a total rated capacity of 4,200-kW and operated under a 9-foot head; (6) a tailrace; (7) a switchyard; (8) a 5,500-foot long transmission line; and (9) appurtenant facilities. The Applicant estimates that the average annual energy output would be 18,400 MWh.

B. The Lock 13 Development comprising: (1) an existing bridge-type movable dam; (2) a reservoir having a surface area of 100 acres at normal pool elevation 286.0 feet m.s.l.; (3) alternate 1 comprising: (a) an intake structure upstream of the dam; (b) a penstock; and (c) a powerhouse; or (4) alternate 2 comprising an intake integral with the dam, a penstock, and a powerhouse; (5) six generating units having a total rated capacity of 2,700-kW and operated under a 7-foot head; (6) a tailrace; (7) a switchyard; (8) a 21,000-foot long transmission line; and (9) appurtenant facilities. The Applicant estimates that the average annual energy output would be 11,800 MWh.

C. The Lock 14 Development comprising: (1) an existing bridge-type movable dam; (2) a reservoir having a surface area of 125 acres at normal pool elevation 294.0 feet m.s.l.; (3) alternate 1 comprising: (a) an intake structure upstream of the dam; (b) a penstock; and (c) a powerhouse; or (4) alternate 2 comprising an intake integral with the dam and a powerhouse; (5) five generating units having a total rated capacity of 2,250-kW and operated under a 7-foot head; (6) a tailrace; (7) a switchyard; (8) a 1,900-foot long transmission line; and (9) appurtenant facilities. The Applicant estimates that the average annual energy output would be 9,800 MWh.

D. The Lock 15 Development comprising: (1) an existing bridge-type movable dam; (2) a reservoir having a surface area of 60 acres at normal pool elevation 302.0 feet m.s.l.; (3) alternate 1 comprising: (a) an intake structure

upstream of the dam; (b) a penstock; and (c) a powerhouse; or (4) alternate 2 comprising an intake integral with the dam and a powerhouse; (5) five generating units having a total rated capacity of 2,000-kW and operated under a 7-foot head; (6) a tailrace; (7) a switchyard; (8) a 400-foot long transmission line; and (9) appurtenant facilities. The Applicant estimates that the average annual energy output would be 10,000 MWh.

E. The Lock 16 Development comprising: (1) an existing bridge-type movable dam; (2) a reservoir having a surface area of 85 acres at normal pool elevation 322.5 feet m.s.l.; (3) a five-mile long portion of the Barge Canal (to be used as an intake channel); (4) an intake structure; (5) a power canal; (6) a powerhouse containing two generating units having a total rated capacity of 4,500-kW and operated under a 20-foot head; (7) a tailrace; (8) a switchyard; (9) a 6,500-foot long transmission line; and (10) appurtenant facilities. The Applicant estimates that the average annual energy output would be 19,700 MWh.

F. The Lock 17 Development comprising: (1) an existing dam in two sections; (2) a reservoir having a surface area of 160 acres at normal pool elevation 363.0 feet m.s.l.; (3) a portion of the Barge Canal (to be used an an intake channel); (4) an intake structure; (5) penstocks; (6) a powerhouse containing two generating units having a total rated capacity of 9,400-kW and operated under a 41-foot head; (7) a tailrace; (8) a switchyard; (9) a 200-foot long transmission line; and (10) appurtenant facilities. The Applicant estimates that the average annual energy output would be 41,000 MWh.

G. The Lock 18 Development comprising: (1) an existing bridge-type movable dam; (2) a reservoir having a surface area of 100 acres at normal pool elevation 383.0 feet m.s.l.; (3) a five-mile long portion of the Barge Canal (to be used as an intake channel); (4) an intake structure; (5) a power canal; (6) a powerhouse containing two generating units having a total rated capacity of 1,800-kW and operated under a 20-foot head; (7) a tailrace; (8) a switchyard; (9) a 400-foot long transmission line; and (10) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7,800 MWh.

The Project would develop a 36-mile reach of the river having a 116-foot elevation change and would comprise 28 generating units having a total rated capacity of 26,850-kW and would produce an average annual energy output of 118,500 MWh.

Purpose of Project—Project energy would be sold to Niagara Mohawk Power Corporation.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would undertake a number of studies, investigations, tests, and surveys to determine the technical and economic feasibility of the proposal and to prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $350,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—The Lock 17 Development portion of this application was filed as a competing application to that of Little Falls Hydroelectric Associates Project No. 3509 filed on September 29, 1980, under 18 CFR 4.33 (1980), and therefore, no further competing applications or notices of intent to file a competing application for the Lock 17 Development portion of this application will be accepted for filing. Anyone desiring to file a competingapplication pertaining to the remaining developments contained in this application must submit to the Commission, on or before August 17, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 16, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before August 17, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4339. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18003 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA81-41-000]

National Forge Co.; Application for Adjustment and Interim Relief From Incremental Pricing Regulations

June 11, 1981.

Take notice that on May 19, 1981, the National Forge Company (National Forge) filed with the Federal Energy Regulatory Commission (Commission) an application for adjustment and interim relief from the provisions of § 282.205 of the Commission's incremental pricing regulations. The application was filed pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.* and § 1.41 of the Commission's Rules of Practice and Procedure.

National Forge's application states the following facts. National Forge obtained an exemption from incremental pricing under § 282.205(b) for its small industrial boiler facility located at its plant in Irvine, Pennsylvania. The exemption was effective as of January 1, 1981. National Forge states that the primary fuel source for the subject boiler facility is coal.

On March 18, 1981, the conveyer system which transfers and supplies coal from the coal pile bin to the boiler facility suffered a major breakdown which was unable to be corrected until March 31, 1981. During this period, from March 18 to March 31, 1981, the boiler facility was obliged to use natural gas as its fuel source. This usage caused the average daily use of natural gas for the month of March to exceed 300 Mcf per day, (the small boiler exemption cut-off figure). On April 24, 1981, National Fuel Gas Distribution Corporation, the facility's supplier, filed a notice of change of circumstances for National Forge's boiler facility status with the Commission pursuant to § 282.205.

As of April 1, 1981, National Forge was able to resume using coal as its primary fuel source in the subject boiler. The average daily use of natural gas for the month of April, 1981 was less than 300 Mcf per day.

National Forge maintains that the breakdown of the conveyer system was an unusual and unexpected occurrence which is not representative of the normal operation of its boiler facility. During the fourteen months prior to the breakdown, the boiler's operation used less than 300 Mcf of gas per day on an average daily basis.

National Forge requests relief from the Commission's regulations, at § 282.205, which provide that a change in circumstances, as experienced by National Forge, requires the user to lose its exempt status with regard to incremental pricing. National Forge states that irreparable injury and undue hardship would result if it is not granted interim relief from the applicable regulations.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's regulations. Any person desiring to participate in this proceeding shall file a petition to intervene in accordance with the provisions of 18 CFR 1.41(e). All petitions to intervene must be filed within fifteen (15) days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17987 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1887-001]

Nicholas Roomy, Jr.; Filing

June 11, 1981.

The filing individual submits the following:

Take notice that on June 4, 1981, Nicholas Roomy, Jr. filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President and Director, Appalachian Power Company; Director, Kanawha Valley Power Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 30, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17988 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 4552-000]

North Valley Land Corp.; Application for Preliminary Permit

June 11, 1981.

Take notice that North Valley Land Corp. (Applicant) filed on April 20, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 4552 to be known as the Antelope Creek Power Project located on the South Fork Antelope Creek in Lassen National Forest in Tehama County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. C. Donald Nelson, 50 Wilshire drive, Redding, California 96002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wished to file.

Project Description—The proposed project would consist of: (1) a 4-foot high diversion structure; (2) a 20,000-foot long combination open ditch and pipeline water conduit; (3) a 3,800-foot long, 36-inch diameter steel penstock serving; (4) a powerhouse to contain one turbine-generating unit with a rated capacity of 2.6 MW; and (5) a 4-mile long, 12-kV transmission line to an existing Pacific Gas and Electric Company transmission line. The Applicant estimates that the average annual energy output would be 13 million kWhs.

Purpose of Project—Applicant proposes to sell the project energy to the Pacific Gas and electric company.

Proposed Scope and Cost of Studies Under Permit—The Applicant has conducted some reconnaissance studies of the site. The Applicant now seeks issuance of a preliminary permit for a period of 24 months, during which it would prepare a definitive project report that would include engineering, economic, and evnironmental data. The cost of these activities, the preparation of an environmental report, obtaining agreements with various Federal, State, and local agencies, and preparation of an FERC license application is estimated by the Applicant to be about $60,000. No new road construction would be required to conduct the field studies under the proposed permit.

Purpose of Preliminary Permit—a preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this

notice through direct mailing from the commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the proposed of a permit as described, in this notice. No other formal request for comments will be made. If an agency does not file comments with the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before Agust 5, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than October 5, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before August 5, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to invervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 4552. Any comments, notices of intent, competing applications, protests, or petititions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. an additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 18-18004 Filed 6-16-81; 8:45 am

BILLING CODE 6450-85-M

[Docket No. ER81-396-000]

Pacific Power & Light Co.; Filing

June 11, 1981.

The filing Company submits the following:

Take Notice that Pacific Power & Light Company (Pacific) on April 1, 1981, tendered for filing, in accordance with § 35.13 of the Commission's Regulations, an Agreement with Svilar Light & Power, Inc. (Svilar) to continue to provide the power and energy requirements of Svilar and to provide for a new Point of Delivery in place of the old Point of Delivery. No change in rates other than a reduction in charges by eliminating the use-of-facilities charge for Pacific's substation.

Pacific requests waiver of the Commission's notice requirements to permit this Rate Schedule to become effective on July 25, 1980, which is the date of commencement of service.

Copies of the filing were supplied to Svilar.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 24, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17909 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-515-000]

Pennsylvania Electric Co., et al.; Filing

June 12, 1981.

In the matter of Pennsylvania Electric Company, Metropolitan Edison Company, and Jersey Central Power & Light Company.

The filing Company submits the following:

Take notice that on June 4, 1981, the GPU Service Corporation tendered for filing, on behalf of the above listed utilities, proposed Schedules 4.02, 4.04, 7.02 and 11.01 to the exising Agreement among them, dated July 21, 1969.

The GPU Service Corporation states that Schedules 4.02, operating capacity obligations and charges; 4.04, regulating capability obligations and charges; 7.02, rates and payments—components of operating capacity and energy costs; and 11.01, definitions have been revised to allow the cost of operating capacity to be added to the cost of energy sold during each hour of the day. This change will bring the method of accounting for the cost of operating capacity and energy into conformity with the method used by the PJM-Interconnection, of which the GPU System Companies listed above are members.

GPU requests waiver of the Commission's notice requirements and requests an effective date of June 1, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18005 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-516-000]

Pennsylvania-New Jersey-Maryland Interconnection; Filing

June 11, 1981.

The filing Company submits the following:

Take notice that on June 4, 1981, Pennsylvania-New Jersey-Maryland Interconnection tendered for filing Modification No. 1 to Schedule 7.05, issued June 2, 1980.

This filing is made on behalf of the above parties in accordance with the authorization contained in Section 5.6 of the Agreement and all parties have received copies.

The Company states that the only change is to increase the demand rate for the supply of Short Term Power from $850 to $1050 per megawatt per week. The Company requests an effective date of August 3, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington , D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17990 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP77-302-006 (TA81-2-6)]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

June 10, 1981.

Take notice that on June 1, 1981, Sea Robin Pipeline Company (Sea Robin) tendered for filing as a part of its FERC Gas Tariff, Original Volume No. 2, Tenth Revised Sheet Nos. 127-D and 135-C to become effective July 1, 1981. These revised tariff sheets reflect Sea Robin's cost of gas delivered at Pecan Island, Louisiana, for the six (6) month period beginning July 1, 1981, and are being filed 30 days prior to the effective date pursuant to Section 4 of Sea Robin's Tariff.

Copies of the revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18006 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-522-000]

Southern California Edison Co.; Filing

June 12, 1981.

The filing Company submits the following:

Take notice that on June 4, 1981, Southern California Edison Company (Edison) tendered for filing a Modification Agreement between Edison and Anza Electric Cooperative, Inc. (Anza). The Agreement modifies certain terms of the Settlement Agreement executed by the Parties on June 8, 1978, and provides for termination of electric service by Edison to Anza. Edison states that the Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Anza Electric Cooperative, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are not on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18007 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-2-10-000 (PGA81-2, IPR81-2)]

Tennessee Natural Gas Lines, Inc; PGA Tariff Filing

June 10, 1981

Take notice that on June 1, 1981, Tennessee Natural Gas Lines, Inc. ("TNGL") tendered for filing a rate change, pursuant to the purchased gas cost adjustment ("PGA") provisions of its FERC Gas Tariff, First Revised Volumn No. 1, and pursuant to § 282.602 of the Commission's regulations under the Natural Gas Policy Act of 1978 ("NGPA"), consisting of the following tariff sheets:

Thirty-Sixth Revised Sheet No. PGA-1; Third Revised Sheet No. PGA-1-A.

TNGL requests that such tariff sheets be allowed to become effective on July 1, 1981.

TNGL states that the purposes of its filing are: To reflect in its rates the changed rates of its sole supplier Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. ("TGP"), which will become effective on July 1, 1981; and, to set forth the estimated Maximum Absorption Capabilities ("MSAC") of its customers as required by § 282.602 of the Commission's regulations under the NGPA.

TNGL states that copies of the filing were served upon its jurisdictional customer, the interested state regulatory commission, its non-jurisdictional customers estimated to be billed for NGPA incremental pricing surcharges, and are available for public inspection at TNGL's offices in Nashville, Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington D.C. 20406, in accordance with § 1.8 or 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 22, 1981. Protests will be considered by the commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18006 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-518-000]

Toledo Edison Co.; Filing

June 12, 1981.

The filing Company submits the following:

Take notice that on June 4, 1981, The Toledo Edison Company (Toledo) tendered for filing a proposed Seasonal Transmission Service Tariff for transmission of prescheduled seasonally available surplus electric power from Buckeye Power, Inc.'s Cardinal units to existing delivery points of municipal distribution systems served by Toledo.

Toledo states that the proposed rate for this transmission is $1.84 per kw per month for scheduled transmission service, with an additional charge of $0.95 per kw per month when service is provided at 12.47 kv.

Toledo requests that waiver of § 35.3 of the Commission's regulations be granted and that the proposed tariff be made effective as of April 1, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17991 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-519-000]

Union Electric Co.; Filing

June 12, 1981.

The filing Company submits the following:

Take notice that on June 4, 1981, Union Electric Company (Union) tendered for filing a notice to the city of Farmington, Missouri revising the rate for transactions under the Boundary Line Agreement between the parties. Union requests a proposed effective date of March 27, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 2, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17992 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1902-001]

William L. Sheafer; Filing

June 12, 1981.

The filing individual submits the following:

Take notice that on May 29, 1981, William L. Sheafer filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Controller, Cincinnati Gas & Electric Company
Controller, Union Light, Heat & Power Company
Controller, Miami Power Corporation
Director, Susquehanna Electric Company

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 6, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18009 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-517-00]

Wisconsin Electric Power Co.; Filing

June 11, 1981.

The filing Company submits the following:

Take notice that Wisconsin Electric Power Company (Wisconsin) on June 4, 1981, tendered for filing proposed changes in its rates and charges for sales for resale to its 21 wholesale customers. The proposed increase is $7,180,165 or 17.6%, on a calendar year 1980 (Period I) basis. Wisconsin requests an effective date of August 3, 1981.

Copies of the filing have been served upon the Company's jurisdictional customers. Copies have also been mailed to the Michigan Public Service Commission and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 25, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-17993 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-61-000]

Michigan Wisconsin Pipe Line Co.; Order Accepting for Filing and Suspending Tariff Sheets, Initiating Hearing and Establishing Procedures

Issued: May 29, 1981.

On May 1, 1981, Michigan Wisconsin Pipeline Company (Mich-Wisc) filed for a general rate increase under section 4(e) of the Natural Gas Act (NGA) that will result in increased charges of approximately $97 million (4.3 percent) compared to the rates presently in effect subject to refund in Docket No. RP80-100 excluding the PGA surcharge of 15.15 cents per dekatherm.[1] Approximately 14.4 percent of the increase in revenues is attributable to costs other than purchased gas costs. The proposed rates are based on an overall cost of service utilizing the twelve months ended January 31, 1981, as adjusted for known and measurable changes in costs that are expected to be incurred by the end of the test period, and a proposed overall rate of return of 12.96 percent. The proposed rates were derived by application of a rate design which assigns costs classified as demand costs in accordance with the *United* decision to all classes of customers on the basis of peak day entitlements. The proposed effective date for the increased rates is June 1, 1981.

Notice of this filing was issued on May 11, 1981, with petitioners to intervene due by May 20, 1981. Petitions to intervene were filed by the petitions listed on Appendix B. The Commission finds that all petitioners have demonstrated an interest in this proceeding warranting their participation. The petitions shall be granted.

Mich-Wisc states that the principal reasons for the proposed changes are: (1) substantial investments in facilities related to the attachment of new gas supplies and installation of additional compression and mainline looping; (2) increased cost of capital; (3) the need for higher depreciation rates; (4) increased levels of operation and maintenance expenses; and (5) a reduction in sales levels.

The cost of service underlying the filed rates reflects costs associated with certain facilities which are not yet certificated. In addition, rate schedules providing for transportation service, the revenues for which are shown on Statement G of the filing, are not yet approved by the Commission. Mich-Wisc anticipates receiving all necessary certifications prior to the time the proposed rates go into effect but respectfully requests a waiver of the Commission's Regulations to the extent necessary to allow inclusion of such costs and revenues pending the requisite Commission approval.

Based upon a review of Mich-Wisc's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept Mich-Wisc's tariff sheets for filing subject to refund and to the conditions set forth below.

In a number of suspension orders, the Commission has addressed the policy considerations underlying the Commission's policy regarding rate suspensions.[2] For the reasons given there we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or in violation of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here. In addition, the Illinois Power Company filed a motion requesting suspension for the maximum statutory period of five months.

Accordingly, subject to the conditions specified below, we shall accept and suspend Mich-Wisc's rates (set forth in Appendix A) for a period of five (5) months to become effective subject to refund on November 1, 1981.

The Commission finds that good cause exists to grant waiver of § 154.63(e)(2)(ii) of its regulations and accept for filing the proposed tariff sheets which reflect costs of uncertificated facilities not yet in service and revenues under rate schedules for transportation services which have not yet been approved by the Commission. Acceptance is subject to Mich-Wisc's filing revised tariff sheets and supporting data prior to the end of the test period to reflect the elimination of costs associated with facilities not in service by October 31, 1981, and the elimination of revenues associated with rate schedules for transportation services which have not been approved by the Commission on or before October 31, 1981. Also, this waiver will be granted upon the condition that Mich-Wisc shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders. Acceptance of Mich-Wisc's filed tariff sheets is further conditioned upon Mich-Wisc's filing revised tariff sheets and supporting data at the end of the test period to reflect the actual balance of advance payments in Account 166 as of October 31, 1981.

The Commission Order

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8 and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the rate increases proposed by Natural.

(B) Pending hearing and decision, and subject to the conditions of the ordering paragraphs below and those described in the body of this order, Mich-Wisc's tariff sheets listed in Appendix A are accepted for filing and suspended for five months until November 1, 1981, subject to refund.

(C) Waiver of § 154.63(e)(2)(ii) of the regulations is granted to the extent necessary to accept Mich-Wisc's tariff sheets (shown in Appendix A) which reflect costs of uncertificated facilities not yet in service and revenues under rate schedules for transportation services which have not yet been approved by the Commission. Waiver is granted subject to the condition that Mich-Wisc file on or before October 31, 1981, revised tariff sheets reflecting the elimination of all costs associated with facilities not in service by October 31, 1981 and the elimination of all revenues associated with rate schedules for transportation services which have not been approved by the Commission on or before October 31, 1981. Waiver is also granted subject to the condition that Mich-Wisc file on or before October 31, 1981, revised tariff sheets to reflect the actual balance of advance payments in Account 166 as of October 31, 1981, *provided, however;* That the inclusion of a higher balance will not be permitted to increase the level of the original suspended rates.

(D) Staff shall be required to serve top sheets on or before September 8, 1981.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that

[1] See Appendix A for a list of the Revised Tariff Sheets.

[2] *E.g., Valley Gas Transmission, Inc.*, Docket No. RP80-98 (August 22, 1980) (one day suspension); *Great Lakes Gas Transmission Company*, Docket No. RP80-134 (September 24, 1980) (five month suspension).

purpose (18 C.F.R. 3.5(d)), shall convene a prehearing conference in this proceeding to be held within 10 days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary to conduct further proceedings in accordance with this order and the Rules of Practice and Procedure.

(F) The petitioners identified in Appendix B to this order are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *provided, however,* that the participation of the intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

By the Commission:

Kenneth F. Plumb,

Secretary.

Appendix A—Michigan-Wisconsin Pipe Line Company

Docket No. RP81-61-000

Original Volume No. 1
Seventh Revised Sheet No. 7
First Revised Volume No. 2
Eleventh Revised Sheet Nos. 92, 110, 129 and 130
Tenth Revised Sheet Nos. 141, 142 and 171
Eighth Revised Sheet nos. 214 and 215
Seventh Revised Sheet Nos. 231, 232, 297, 315 and 339
Sixth Revised Sheet Nos. 420 and 421
Fourth Revised Sheet No. 656
Third Revised Sheet Nos. 486, 508, 519, 531, 553, 563, 575, 585, 596, 597, 611, 612, 618, 619, 680, 681, 698 and 699
Second Revised Sheet Nos. 777, 778, 803, 833, 856, 857, 865, 944, 1023, 1133, 1134, 1161 and 1202
First Revised Sheet Nos. 789, 978, 995, 1077, 1221, 1222, 1249, 1250, 1276, 1277, 1303, 1304, 1330, 1405, 1473, 1474, 1529, 1530, 1531, 1554, 1555, 1578, 1579, 1602, 1603, 1625, 1626, 1652, 1653, 1678, 1679, 1707, 1708, 1734, 1735, 1758, 1776, 1777, 1778, 1805 and 1806
Original Sheet Nos. 1AA, 1BB, 1CC and 1DD

Appendix B—Michigan-Wisconsin Pipe Line Company

Docket No. RP81-61-000

Wisconsin Natural Gas Company
Michigan Power Company
Associated Natural Gas Company
Michigan Gas Utilities Company
State of Michigan and the Michigan Public Service Commission
Michigan Consolidated Gas Company
Chevron Chemical Company
North Central Public Service Company
Illinois Power Company
Public Service Commission of Wisconsin
Columbia Gas Transmission Corporation

[FR Doc. 81-17976 Filed 6-16-81; 8:45 am]
BILLING CODE 6450-85-M

[Docket Nos. RP81-54-000, RP81-56-000, and RP80-97-004]

Tennessee Gas Pipeline Co.; Order Accepting for Filing and Suspending Proposed Rate Increase Subject to Conditions; Rejecting Tariff Sheets; Consolidating Proceedings; Initiating Hearing and Establishing Procedures

Issued: May 29, 1981.

This order treats two filings by Tennessee Gas Pipeline Company (Tennessee). One filing is a general Natural Gas Act Section 4 rate increase application, and the other filing proposes to implement dekatherm billing on the Tennessee system.

I. General Section 4 Rate Filing (RP81-54)

On April 30, 1981, Tennessee Gas Pipeline Company tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1 and Sixth Revised Volume No. 2 [1] to become effective June 1, 1981. The proposed changes in rates would increase revenues from jurisdictional sales and service by approximately $197.5 million based upon the 12 month period ended January 31, 1981 as adjusted.

Notice of this filing was issued on May 11, 1981, with petitions to intervene due by May 20, 1981. Petitions to intervene were filed by the petitioners listed in Appendix C. The Commission finds that all petitioners have demonstrated an interest in this proceeding warranting their participation. The petitions shall be granted.

Tennessee states that the principal reasons for the proposed rate changes are: (1) an increase in the overall rate of return to 14.06%, plus an additional allowance of 1% to reflect the further risk which Tennessee experiences in a period of ever increasing costs; (2) an increase in the depreciation rate for offshore facilities to 12.5%; (3) a major increase in gas plant of approximately $274 million and related expenses; (4) an increase in the cost of materials, supplies, wages and services required to operate and maintain Tennessee's pipeline; and (5) an increase in the cost of transportation and storage of gas by others. In addition, the instant filing reflects Tennessee's adoption of a dekatherm billing basis and a three-part rate for its jurisdictional sales as set forth in its filing of April 30, 1981, under Docket No. RP81-56.

The cost of service underlying the rates filed herein reflects costs associated with certain facilities which are not yet certificated and the rates reflect Tennessee's adoption of a dekatherm billing basis and a three part rate for its jurisdictional sales as set forth in its filing of April 30, 1981 under Docket No. RP81-56.

In addition, Tennessee has proposed adding a Transportation Cost Rate Adjustment provision to its FERC tariff which would allow Tennessee to track increases and decreases in costs paid for transmission and compression of gas by others.

Tennessee requests waiver of Section 154.38(d)(3) of the Commission's regulations to accept for filing First Revised Sheet No. 225 and Original Sheet No. 226 reflecting the Transportation Cost Rate Adjustment provision. section 154.38(d)(3) of the Commission's Regulations specifically prohibits including this type of adjustment in a pipeline's rate schedule or any other part of the tariff. To the extent that Tennessee incurs increases in the costs paid for transmission and compression of gas by others, these costs are included in FERC Account No. 858 and recovered in rate increase filings. Accordingly, First Revised Sheet No. 225 and Orignial Sheet No. 226 shall be rejected as not being in compliance with Section 154.38(d)(3) of the Commission's regulations. The rejection should be without prejudice to the proposal contained therein being considered as an issue in this proceeding.

Based upon a review of Tennessee's filing, the Commission finds that the proposed rate increase and tariff modifications have not been shown to be just and reasonable and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept for filing Tennessee's revised tariff sheets as listed in Appendix A, suspended their effectiveness for five months until November 1, 1981 when they shall be permitted to become effective subject to refund, and to the conditions set forth below.

In a number of suspension orders, the Commission has addressed the policy considerations underlying the Commission's policy regarding rate

[1] A list of revised tariff sheets is set forth in Appendix A to this order.

suspensions.[3] For the reasons given there we concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or in violation of other statutory standards. We have acknowledged, however, that shorter suspension may be unwarranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here.

Tennessee's cost of service includes certain facilities which have not been certificated and placed in service. The Commission normally accepts proposed rates that reflect the costs of facilities not placed in service conditioned upon the filing of revised tariff sheets to reflect elimination of the facilities not in service before the proposed rates go into effect. In this respect, Tennessee should be permitted to include these items conditioned upon the filing of revised tariff sheets reflecting the elimination of costs associated with any facilities not in service on or before November 1, 1981. Also, this waiver will be granted upon the condition that Tennessee shall not be permitted to make offsetting adjustments other than those made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders. Acceptance of Tennessee's filed tariff sheets is further conditioned upon Natural's filing revised tariff sheets and supporting data at the end of the test period to reflect the actual balance of advance payments in Account 166 as of September 30, 1981.

For purposes of this filing, Tennessee has used the *Atlantic Seaboard* method [3] of cost classification cost allocation and rate design in determining rates. The Commission has been placing companies on notice that the use of the *Atlantic Seaboard* method may be inadequate and contrary to the public interest.[4] Consequently, Tennessee should be placed on notice that to the extent that the rates found just and reasonable for Tennessee after hearing and decision departs from the *Atlantic Seaboard* methodology by assigning additional fixed costs to the commodity component of its rates, Tennessee may be subject to undercollections may occur.

II. Dekatherm Filing (RP80–97–004 and RP81–56–000)

On April 30, 1981, Tennessee Gas Pipeline Company (Tennessee), tendered for filing Original Volume No. 1 of its FERC Gas Tariff and certain tariff sheets to Sixth Revised Volume No. 2 designed to implement a dekatherm billing basis for Tennessee's jurisdictional sales and make other miscellaneous changes in Tennessee's tariff.[5] Tennessee states that this filing will not result in increased revenues. The proposed effective date is June 1, 1981.

Notice of this filing was issued on May 11, 1981, with petitions to intervene due by May 20, 1981. Petitions to intervene were filed by the petitioners listed in Appendix C to this Order. Having demonstrated an interest in this proceeding warranting their participation, these petitioners are granted intervention.

Tennessee has revised its existing two-part demand and commodity sales rates to separate the present commodity charge into two components, a commodity charge based on non-gas costs and a gas charge based solely on gas costs. All gas costs reflected in Tennessee's current sales rates would be henceforth reflected in the gas charges and billed on a dekatherm basis. The demand and commodity sales charges which now reflect solely the costs associated with transporting the gas to the customer will continue to be billed on a volumetric basis.

According to Tennessee, the heat content of its flowing supplies can vary from time to time at different points on the system depending upon the producers exercise of their processing rights.[6] Accordingly, Tennessee has determined that it would be more equitable to change to a heat content billing basis for Tennessee's cost of gas and that it is appropriate to reduce the guaranteed Btu content of its gas deliveries.

The Commission concludes that further review of the dekatherm conversion, three-part rate structure and resulting revenues is necessary. Furthermore, we note that on May 19, 1981 Tennessee filed a letter with the Commission indicating that a number of Tennessee's customers have either indicated concerns with the filing or stated that the complexity of the filing will preclude them from reviewing it adequately prior to the proposed June 1, 1981 effective date.

Based upon a review of Tennessee's filing, the Commission finds that the proposed rates have not been shown to be just and reasonable or otherwise unlawful. Accordingly, the Commission shall accept the proposed tariff sheets for filing, and suspend their effectiveness, subject to refund and to the conditions set forth below.

In a number of suspensions orders,[7] the Commission has addressed the considerations underlying its policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or that it may run afoul of the other statutory standards. It has been acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. Since this filing is not intended to increase revenues, the Commission shall suspend the effectiveness of the proposed tariff sheets for one day to become effective on June 2, 1981, subject to refund and subject to modification in the consolidated proceeding noted below.

Consolidation

We find that all of the dockets discussed in this order raise common issues of law and fact. Accordingly, we shall consolidate Docket Nos. RP80–97, RP81–54 and RP81–56 for purposes of hearing and decision.

The Commission Orders

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the revised rates proposed by Tennessee in Docket Nos. RP80–97, RP81–54 and RP81–56.

(B) Pending hearing and decision, and subject to the conditions of the ordering

[3] E.g., *Valley Gas Transmission, Inc.*, Docket No. RP80–98 (August 22, 1980) (one day suspension); *Great Lakes Gas Transmission Company*, Docket No. RP80–134 (September 24, 1980) (five month suspension).

[3] *Atlantic Seaboard Corporation*, 11 FPC 43 (1952).

[4] *See, Natural Gas Pipeline Company of America*, order issued April 30, 1981, in Docket No. RP81–49–000.

[5] A list of filed revised tariff sheets is set forth in Appendix B to this order.

[6] The actual Btu content of Canadian gas, which Tennessee has been authorized to purchase, has decreased to well below 1000 Btu per cubic foot as a result of increased processing by Canadian producers. Additionally, most of the domestic producers from whom Tennessee purchases gas retain the right to process all gas sold.

[7] E.g., *Valley Gas Transmission Inc.*, Docket No. RP80–98 (August 22, 1980) (one day suspension); *Great Lakes Gas Transmission Company*, Docket No. RP80–134 (September 24, 1980) (five month suspension).

paragraphs below and those described in the body of this order, Tennessee's tendered tariff sheets listed in Appendix A in Docket No. RP81–54 shall be accepted for filing and suspended for the full statutory period of five months until November 1, 1981, when they shall be permitted to become effective, subject to refund.

(C) Tennessee's tendered First Revised Sheet No. 225 and Original Sheet No. 226 to its FERC Gas Tariff, Original Volume No. 1 in Docket No. RP81–54 comprising its Transportation Cost Rate Adjustment provision is rejected without prejudice to the proposal contained therein being considered as an issue in this proceeding.

(D) Tennessee is required to file revised tariff in Docket No. RP81–54 sheets to reflect elimination of costs associated with facilities not placed in service by November 1, 1981, and is further required to revise its tariff sheets to reflect the actual balance of advance payments in Account 166 as of October 31, 1981, *provided, however,* That the inclusion of a higher advance payment balance will not be permitted to increase the level of the original, suspended rates.

(E) Pending hearing and decision the proposed revised tariff sheets in Docket Nos. RP80–97 and RP81–56 listed in Appendix B.

(F) Docket Nos. RP80–97, RP81–54 and RP81–56 are hereby consolidated for purposes of hearing and decision.

(G) Staff shall be required to serve top sheets on or before September 4, 1981.

(H) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 C.F.R. 3.5(d)), shall convene a prehearing conference in this proceeding to be held within ten days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary and to conduct further proceedings in accordance with this order and the Rules of Practice and Procedure.

(I) The petitioners identified in Appendix C to this order are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *provided, however,* that the participation of the intervenors shall be limited to matters affecting asserted rights and interests set forth in their petition to intervene and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix A—Tennessee Gas Pipeline Company

Docket No. RP81–54

Original Volume No. 1
First Revised Sheet No. 20
First Revised Sheet No. 21
First Revised Sheet No. 22
Sixth Revised Volume No. 2
First Revised Sheet No. 277B
First Revised Sheet No. 299V6
First Revised Sheet No. 299W5
First Revised Sheet No. 299X6
First Revised Sheet No. 299Y6
First Revised Sheet No. 299EE6
First Revised Sheet No. 299FF5
First Revised Sheet No. 299GG7
First Revised Sheet No. 299JJ5
First Revised Sheet No. 322D
Second Revised Sheet No. 266J
Second Revised Sheet No. 268C
Second Revised Sheet No. 287E
Second Revised Sheet No. 288D
Second Revised Sheet No. 289E
Second Revised Sheet No. 290E
Second Revised Sheet No. 291E
Second Revised Sheet No. 292E
Second Revised Sheet No. 299L9
Second Revised Sheet No. 299M6
Second Revised Sheet No. 299N5
Second Revised Sheet No. 299Q5
Second Revised Sheet No. 299R5
Second Revised Sheet No. 299S9
Second Revised Sheet No. 299S10
Third Revised Sheet No. 266I
Third Revised Sheet No. 274E
Fifth Revised Sheet No. 141A
Sixth Revised Sheet No. 294H
Sixth Revised Sheet No. 249I
Seventh Revised Sheet No. 245D
Eighth Revised Sheet No. 76
Eighth Revised Sheet No. 215
Ninth Revised Sheet No. 53
Ninth Revised Sheet No. 54
Ninth Revised Sheet No. 77
Tenth Revised Sheet No. 141
Twelfth Revised Sheet No. 11
Twelfth Revised Sheet No. 12

Appendix B—Tennessee Gas Pipe Line Company

Docket Nos. RP81–56 and RP80–97–004

Original Volume No. 1
Sixth Revised Volume No. 2
First Revised Sheet Nos. 425, 432, 433, 434, 435, 436, 437, 438, 439, 440 and 441
Second Revised Sheet Nos. 430 and 431
Third Revised Sheet No. 428
Sixth Revised Sheet No. 429
Seventh Revised Sheet No. 426
Eighth Revised Sheet No. 427

Appendix C—Tennessee Gas Pipeline Company

Docket No. RP81–54–000—Interventions

Western Kentucky Gas Company
Orange and Rockland Utilities
Midwestern Gas Transmission Company
Columbia Gas Transmission Corporation
New England Customer Group
Pennsylvania Gas and Water Company
East Tennessee Group
Public Service Electric and Gas Company
North Indiana Public Service Company
New York State Electric & Gas Corporation
Consolidated Edison of New York
East Tennessee Natural Gas Company
Public Service Commission of New York

Docket No. RP81–56–000—Interventions

Columbia Gas Transmission Corporation
Pennsylvania Gas and Water Company
East Tennessee Group
New York State Electric & Gas Corporation
East Tennessee Natural Gas Company

[FR Doc. 81–17978 Filed 6–16–81; 8:45 am]
BILLING CODE 6450–85–M

JC NO	DA TAT	API NO	T SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION							
-ADA OIL EXPLORATION CORP			RECEIVED: 05/11/81 JA: TX				
8130593	27110	4237330417	102-3	DUKE #1-A	EDNY DUKE (WILCOX 9000)	142.7	TENNESSEE GAS PIP
8130592	27041	4237330410	102-3	EDNA P MILLER #1	NEW ACE FIELD	109.5	TENNESSEE GAS PIP
8130577	25582	4228730472	102-2	JOHN NEWMAN #1	GIDDINGS (AUSTIN CHALK)	241.3	PHILLIPS PETROLEU
8130572	24959	4205100000	102-2	POST OAK HILL #1	GIDDINGS (AUSTIN CHALK)	219.0	CLAJON GAS CO
-AGOIL INC			RECEIVED: 05/11/81 JA: TX				
8130504	12585	4246931261	102-4	MCCAN NO 4	CRAIN (4000) FIELD	91.0	TENNESSEE GAS PIP
8130504	12585	4246931261	103	MCCAN NO 4	CRAIN (4000) FIELD	91.0	TENNESSEE GAS PIP
8130505	12586	4246931290	102-4	MCCAN NO 5	CRAIN (3300) FIELD	91.0	TENNESSEE GAS PIP
8130505	12586	4246931290	103	MCCAN NO 5	CRAIN (3300) FIELD	91.0	TENNESSEE GAS PIP
-ALL GLORY BEE OIL GAS & MINERALS CO			RECEIVED: 05/11/81 JA: TX				
8130651	30785	4236331975	102-4	GLORY BEE #1 91041	MT SIGN (DUFFER)	507.0	CORONADO TRANSMIS
-ALPAR RESOURCES INC			RECEIVED: 05/11/81 JA: TX				
8130626	29969	4239330776	103	CAMPBELL RANCH #1-63	MENDOTA NW (GRANITE WASH	350.0	PIONEER NATURAL G
8130560	23844	4235700000	102-4	HARBAUGH #11 RRC NO 03889	LONE BUTTE (CLEVELAND)	18.0	PHILLIPS PETROLEU
8130561	23845	4235700000	102-4	P A HARBAUGH #3114	LONE BUTTE (CLEVELAND)	0.0	PHILLIPS PETROLEU
8130565	23849	4235700000	102-4	P A HARBAUGH #34	LONE BUTTE (CLEVELAND)	35.0	PHILLIPS PETROLEU
8130562	23846	4235700000	102-4	P A HARBAUGH #44	LONE BUTTE (CLEVELAND)	2.0	PHILLIPS PETROLEU
8130564	23848	4235700000	102-4	P A HARBAUGH B #13	LONE BUTTE (CLEVELAND)	4.0	PHILLIPS PETROLEU
8130563	23847	4235700000	102-4	P A HARBAUGH B #24	LONE BUTTE (CLEVELAND)	9.0	PHILLIPS PETROLEU
-AMERICAN PUBLIC ENERGY CO			RECEIVED: 05/11/81 JA: TX				
8130631	30206	4243523292	103	HULL #1	SONORA (CANYON-UPPER)	330.0	EL PASO NATURAL G
8130631	30206	4243523292	107-TF	HULL #1	SONORA (CANYON-UPPER)	330.0	EL PASO NATURAL G
-AMMEX PETROLEUM CORP			RECEIVED: 05/11/81 JA: TX				
8130512	19387	4205100000	102-2	GEORGE SIMEK #1 - RRC #11962	GIDDINGS (AUSTIN CHALK)	109.0	CLAJON GAS CO
8130512	19387	4205100000	103	GEORGE SIMEK #1 - RRC #11962	GIDDINGS (AUSTIN CHALK)	109.0	CLAJON GAS CO
-AMOCO PRODUCTION CO			RECEIVED: 05/11/81 JA: TX				
8130675	31382	4220330736	107-TF	ALICE SNIDER GAS UNIT NO 1	WOODLAWN (COTTON VALLEY)	360.0	EAST TEXAS INDUST
8130676	31389	4220330723	107-TF	BATH GAS UNIT A WELL NO 1	BLOCKER (COTTON VALLEY)	436.0	UNITED GAS PIPELI
8130792	33228	4213533458	103	DAVID FASKEN BG #3	FASKEN S (ATOKA)	6.2	AMOCO PRODUCTION
8130793	33229	4213533426	103	ELLIOTT F COWDEN A #139	COWDEN SOUTH (8790 CANYO	3.7	PIONEER NATURAL G
8130627	30064	4200332409	103	FULLERTON SAN ANDRES UNIT #67	FULLERTON SAN ANDRES	12.1	AMOCO PRODUCTION
8130811	33291	4221933020	103	LEVELLAND UNIT #782	LEVELLAND	21.8	AMOCO PRODUCTION
8130680	31478	4228330626	107-TF	SANDERS GAS UNIT WELL NO 3	WOODLAWN/COTTON VALLEY/	436.0	EAST TEXAS INDUST
8130791	33227	4249531240	103	SEALY-SMITH FOUNDATION A #52	MONAHANS E (PENN LO)	39.1	PIONEER NATURAL G
8130812	33292	4200332389	103	UNIVERSITY CONSOLIDATED XII #44	FUHRMAN-MASCHO	44.5	AMOCO PRODUCTION
8130686	31878	4240730395	102-4	W W LANGHAM D WELL NO 1	URBANA (WILCOX 10000)	54.0	UNITED GAS PIPELI
8130813	33294	4248930619	102-4	WILLAMAR COMMUNITY NO 2	WILLAMAR(GRABEN 5090)	30.0	NATURAL GAS PIPEL
-ANADARKO PRODUCTION COMPANY			RECEIVED: 05/11/81 JA: TX				
8130814	33295	4233500000	102-4	J F MCCABE NO 1	JAMESON N (ODOM)	24.0	SUN GAS DIV OF SU
-ANDERSON PETROLEUM INC			RECEIVED: 05/11/81 JA: TX				

JD NO	JA DKT	API NO	L SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8130600	27461	4210532458	107-TF	A C MILLSPAUGH A 1-32	OZONA (CANYON SAND)	120.0	ANDERSON PIPELINE
8130601	27481	4210532585	107-TF	AUSTIN MILLSPAUGH B 1-70	OZONA (CANYON SAND)	30.0	ANDERSON PIPELINE
8130607	28212	4210532993	103	FRANK WHITE A 2-85	OZONA (CANYON SAND)	90.0	ANDERSON PIPELINE
8130607	28212	4210532993	107-TF	FRANK WHITE A 2-85	OZONA (CANYON SAND)	90.0	ANDERSON PIPELINE
				RECEIVED: 05/11/81 JA: TX			
-ANDOVER OIL COMPANY							
8130557	23287	4237100000	108	PUCKETT E WELL #3	BELDING (YATES)	3.0	EL PASO NATURAL G
8130558	23296	4237100000	108	PUCKETT E WELL #4	BELDING (YATES)	3.0	EL PASO NATURAL G
				RECEIVED: 05/11/81 JA: TX			
-APACHE CORPORATION							
8130707	32655	4248330575	107-DP	STILES #3-3T		328.5	ARKANSAS LOUISIAN
				RECEIVED: 05/11/81 JA: TX			
-ARCO OIL AND GAS COMPANY							
8130616	29113	4231131151	102-4	BAKER 4 WELL #1	BRAZIL (1890')	200.0	CENTRAL POWER & L
8130617	29431	4231131478	103	D W RHODE 9(A) #5C	RHODE RANCH EAST (WILCOX	700.0	ARCO OIL & GAS CO
8130763	33134	4200332498	103	EMMA COWDEN #90	EMMA	10.0	EL PASO NATURAL G
8130764	33135	4200332520	103	EMMA COWDEN #92	EMMA (GRAYBURG)	20.0	EL PASO NATURAL G
8130835	33371	4217900000	108	HUMPHREYS-SHAW NO 1	PANHANDLE GRAY	11.0	PHILLIPS PETROLEU
8130836	33372	4206530784	103	R C WARE NO 20	PANHANDLE CARSON COUNTY	7.3	GETTY OIL CO
				RECEIVED: 05/11/81 JA: TX			
-BALL PRODUCTION CO							
8130655	30910	4204932349	103	WILLIE LEE MEDLEY #1 (90045)	BROWN COUNTY REGULAR (MA	300.0	ODESSA NATURAL CO
				RECEIVED: 05/11/81 JA: TX			
-BASS ENTERPRISES PRODUCTION CO							
8130735	33066	4210332404	102-4	L D MOSS ET AL NO 26	TROPORO N (DEVONIAN)	87.0	PGP GAS PRODUCTS
				RECEIVED: 05/11/81 JA: TX			
-BETTIS BOYLE & STOVALL							
8130508	18616	4208700000	108	GOOCH #5	PANHANDLE EAST	10.0	WARREN PETROLEUM
8130509	18638	4248300000	108	LANKFORD #1	PANHANDLE EAST	11.9	WARREN PETROLEUM
8130510	18651	4208700000	108	MCDOWELL	PANHANDLE EAST	6.9	WARREN PETROLEUM
				RECEIVED: 05/11/81 JA: TX			
-BILL J GRAHAM							
8130777	33169	4210900000	108	TXL - 9 #1	GERALDINE (FORD)	0.0	CONTINENTAL OIL C
8130778	33172	4210900000	108	TXL - 9 #4	GERALDINE (FORD)	0.0	CONTINENTAL OIL C
				RECEIVED: 05/11/81 JA: TX			
-BRAZOS RESOURCES INC							
8130820	33321	4205100000	103	ROBINSON UNIT WELL NO 1	GIDDINGS (AUSTIN CHALK)	0.0	FERGUSON CROSSING
				RECEIVED: 05/11/81 JA: TX			
-C & K PETROLEUM INC							
8130711	32816	4210931384	103	CATTAIL WELL NO 1	MARSH SOUTH (DELAWARE)	100.0	INTRATEX GAS CO
				RECEIVED: 05/11/81 JA: TX			
-C F LAWRENCE & ASSOC INC							
8130502	07140	4210500000	103	HARWOOD D #1 74670	CLARA COUCH (WOLFCAMP)	11.4	EL PASO NATURAL G
				RECEIVED: 05/11/81 JA: TX			
-CAG PETROLEUM CORP							
8130765	33152	4205130599	102-2	KNESEK ET AL UNIT NO 1 RRC #12888	GIDDINGS AUSTIN CHALK	54.0	CLAJON GAS CO
				RECEIVED: 05/11/81 JA: TX			
-CENTEX OIL & GAS INC							
8130660	30982	4270830236	103	HIGH ISLAND BLOCK 10-L GULF NO 6	HIGH ISLAND BLOCK 10-L G	0.0	TRANSCONTINENTAL
				RECEIVED: 05/11/81 JA: TX			
-CHAMPLIN PETROLEUM COMPANY							
8130634	30266	4236531004	107-TF	CARTHAGE GAS UNIT 28-3	CARTHAGE (COTTON VALLEY)	637.0	TENNESSEE GAS PIP
8130633	30265	4236531045	107-TF	CARTHAGE GAS UNIT 31 NO 2	CARTHAGE	402.0	TENNESSEE GAS PIP
8130636	30269	4236530981	107-TF	CARTHAGE GAS UNIT 7 NO 2	CARTHAGE	1.5	TENNESSEE GAS PIP
8130635	30267	4236530930	107-TF	CARTHAGE GAS UNIT 8-3	CARTHAGE (COTTON VALLEY)	256.0	TENNESSEE GAS PIP
				RECEIVED: 05/11/81 JA: TX			
-CHEROKEE ENERGY INC							
8130548	23010	4224931147	102-4	H J MOSSER #1 87968	HARRY J (5300)	73.0	VALERO TRANSMISSI
				RECEIVED: 05/11/81 JA: TX			
-CHEVRON U S A INC							
8130861	33089	4200331940	103	COLUMBUS GRAY #19-19	FUHRMAN - MASCHO	671.6	PHILLIPS PETROLEU
				RECEIVED: 05/11/81 JA: TX			
-CLEMCO INC							
8130516	20027	4220330639	102-4	CLEMENTS GAS UNIT NC 3 WELL NO 3	ALPINE (TRAVIS PEAK)	180.0	ARKANSAS LOUISIAN
8130594	27148	4218330416	107-TF	HENDERSON GAS UNIT NO 1 #88540	N LANSING (COTTON VALLEY	127.0	ARKANSAS LOUISIAN
				RECEIVED: 05/11/81 JA: TX			
-CLOVER ENERGY CORP							
8130715	32880	4212331097	102-4	BRUSHY CREEK UNIT NC 1 ID 90943	BRUSHY CREEK S (7700)	95.0	TEXAS EASTERN TRA
				RECEIVED: 05/11/81 JA: TX			
-COSTAL OIL & GAS CORP							
8130797	33243	4237530755	103	BIVINS 3306 S	PANHANDLE (RED CAVE)	11.0	COLORADO INTERSTA

JF NO	JA KT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-CONOCO INC			RECEIVED: 05/11/81 JA: TX				
8130839	33388	4243300000	108	A BRINKLEY JR-A-#15 ID #04263	FLOWERS	0.3	CITIES SERVICE OI
8130858	33417	4216500000	108	A L WASSON -48- #35 ID #17975	WASSON	2.0	SHELL OIL CO
8130855	33413	4211500000	108	EAST ACKERLY DEAN UNIT #25 ID	ACKERLY	5.0	TEXACO
8130857	33416	4211500000	108	EAST ACKERLY DEAN UNIT #27 ID	ACKERLY	0.7	TEXACO
8130514	19785	4211500000	108	EAST ACKERLY DEAN UNIT #43 ID	ACKERLY	1.0	TEXACO
8130838	33386	4215100000	108	LUCIE MAE WILSON #14 ID #01915	ROUND TOP	6.8	LONE STAR GAS CO
8130860	33420	4215100000	108	LUCIE MAE WILSON #28 ID #01915	ROUND TOP	8.7	LONE STAR GAS CO
8130726	33053	4210900000	103	RAMSEY -22- #9 ID #24217	FORD WEST (4100)	16.1	EL PASO NATURAL G
8130856	33414	4210931443	103	RAMSEY-22-#10 ID #24212	FORD WEST (4100)	19.0	EL PASO NATURAL G
8130859	33418	4200300000	108	W FUHRMAN MASCHO UNIT #18 ID #21220	FIHRMAN - MASCHO	0.5	PHILLIPS PET CO
-CORPUS CHRISTI OIL AND GAS CO			RECEIVED: 05/11/81 JA: TX				
8130689	31998	4260330125	102-4	STATE TRACT 834-S WELL #1 LOWER	CLEAR (MIOCENE 6680) FIE	0.0	CHANNEL INDUSTRIE
-COURSON OIL & GAS INC			RECEIVED: 05/11/81 JA: TX				
8130661	31086	4229530839	103	LANDERS #2-855C	BRADFORD (CLEVELAND)	250.0	TRANSWESTERN PIPE
-DELTA DRILLING CO			RECEIVED: 05/11/81 JA: TX				
8130641	30460	4236500000	107-TF	ALICE SNIDER #1 84488	CARTHAGE (COTTON VALLEY)	500.0	NATURAL GAS PIPEL
8130678	31412	4242300000	108	BINA RAYFORD #1 #41517	CHAPEL HILL FIELD	19.7	UNITED GAS PIPE L
8130637	30296	4236500000	107-TF	J H TURNER #1 86929	CARTHAGE (COTTON VALLEY)	73.0	UNITED GAS PIPE L
8130581	25828	4236531129	102-2	JETTA WILLIS #1	WILDCAT ABOVE 10400	365.0	NATURAL GAS PIPEL
8130581	25828	4236531129	103	JETTA WILLIS #1	WILDCAT ABOVE 10400	365.0	NATURAL GAS PIPEL
8130630	30168	4241300000	107-TF	JONES #2 90449	ELDORADO (CANYON SAND)	91.0	NORTHERN NATURAL
-DELTA OIL & GAS CO			RECEIVED: 05/11/81 JA: TX				
8130760	33127	4242932537	103	JOE B MATTHEWS ESTATE ET AL 16154	STEPHENS COUNTY REGULAR	6.6	WARREN PETROLEUM
-DIAMOND SHAMROCK CORPORATION			RECEIVED: 05/11/81 JA: TX				
8130758	33116	4242100000	108	BYWATERS ESTATE NO 2	TEXAS HUGOTAN	3.0	NORTHERN NATURAL
8130757	33115	4239300000	108	F M CHAMBERS B 1-79	MENDOTA NW	1.0	SOUTHWESTERN PUBL
8130613	28581	4229530787	103	MARIE KOCH NO 2	BRADFORD	100.0	SOUTHWESTERN PUBL
-EL PASO NATURAL GAS COMPANY			RECEIVED: 05/11/81 JA: TX				
8130802	33251	4243532346	103	BARTON #3	SONORA CANYON UPPER	85.0	EL PASO NATURAL G
8130802	33251	4243532346	107-TF	BARTON #3	SONORA CANYON UPPER	85.0	EL PASO NATURAL G
8130780	33205	4243532237	107-TF	BERGER GAS UNIT #4	SONORA CANYON UPPER	81.0	EL PASO NATURAL G
8130774	33166	4243532218	107-TF	BERGER GAS UNIT #5	SONORA CANYON UPPER	119.0	EL PASO NATURAL G
8130771	33163	4243532217	107-TF	BERGER GAS UNIT #6	SONORA CANYON UPPER	182.0	EL PASO NATURAL G
8130798	33246	4243532340	103	DAVIS D #3	SONORA CANYON UPPER	82.0	EL PASO NATURAL G
8130798	33246	4243532340	107-TF	DAVIS D #3	SONORA CANYON UPPER	82.0	EL PASO NATURAL G
8130800	33248	4243532347	103	DEBERRY-BERGER UNIT #1	SONORA CANYON UPPER	110.0	EL PASO NATURAL G
8130800	33248	4243532347	107-TF	DEBERRY-BERGER UNIT #1	SONORA CANYON UPPER	110.0	EL PASO NATURAL G
8130803	33252	4243532343	103	DEBERRY-BOYETT UNIT #3	SONORA CANYON UPPER	85.0	EL PASO NATURAL G
8130803	33252	4243532343	107-TF	DEBERRY-BOYETT UNIT #3	SONORA CANYON UPPER	85.0	EL PASO NATURAL G
8130775	33167	4243532197	107-TF	DEBERRY-HALBERT UNIT #3	SONORA CANYON UPPER	34.0	EL PASO NATURAL G
8130801	33249	4243532339	103	DEBERRY-HALBERT UNIT #4	SONORA CANYON UPPER	81.0	EL PASO NATURAL G
8130801	33249	4243532339	107-TF	DEBERRY-HALBERT UNIT #4	SONORA CANYON UPPER	81.0	EL PASO NATURAL G
8130761	33129	4208726069	108	EMMERT A #2	PANHANDLE EAST	17.0	EL PASO NATURAL G
8130776	33168	4243532199	107-TF	HALBERT #5	SONORA CANYON UPPER	26.0	EL PASO NATURAL G
8130804	33253	4243532342	103	HALBERT #6	SONORA CANYON UPPER	81.0	EL PASO NATURAL G
8130804	33253	4243532342	107-TF	HALBERT #6	SONORA CANYON UPPER	81.0	EL PASO NATURAL G
8130762	33130	4208726135	108	LAYCOCK A #3	PANHANDLE EAST	17.0	EL PASO NATURAL G
8130773	33165	4243532189	107-TF	SHURLEY #14	SAWYER CANYON	66.0	EL PASO NATURAL G
8130799	33247	4243532335	103	SHURLEY #17	SAWYER CANYON	134.0	EL PASO NATURAL G
8130799	33247	4243532335	107-TF	SHURLEY #17	SAWYER CANYON	134.0	EL PASO NATURAL G
8130772	33164	4243532353	107-TF	WARD #8	SONORA CANYON UPPER	96.0	EL PASO NATURAL G
8130583	25899	4208726284	108	WATTENBARGER A #4	PANHANDLE EAST	22.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-ENERGETICS INC						RECEIVED: 05/11/81 JA: TX			
8130712	32870	4214930455		102-2		J L SHEPARD #1 ID# 13501	GIDDINGS (AUSTIN CHALK)	72.0	PHILLIPS PETROLEU
8130714	32872	4214930624		102-2		J L SHEPARD #2 ID#13501	GIDDINGS (AUSTIN CHALK)	40.0	PHILLIPS PETROLEU
8130713	32871	4214930452		102-2		J T WILSON #1 ID# 12976	GIDDINGS (AUSTIN CHALK)	225.0	PHILLIPS PETROLEU
-ENRE CORP						RECEIVED: 05/11/81 JA: TX			
8130786	33217	4213331860		103		COOPER A #1 (15130)	CISCO NW (ELLENBURGER)	53.0	BENGAL GAS TRANSM
8130787	33219	4205932249		103		FAYE WILBANKS #1 (15172)	PUTNAM NORTH (DUFFER)	34.0	BENGAL GAS TRANSM
8130788	33220	4205931942		103		FLEMING #1 (76414)	FLEMING (DUFFER) FIELD	348.0	BENGAL GAS TRANSM
8130789	33221	4205932317		103		LAWSON #1 (15284)	PUTNAM NORTH (DUFFER)	22.0	BENGAL GAS TRANSM
8130784	33215	4213331690		103		PENN #1 (15027)	EASTLAND COUNTY REGULAR	3.0	BENGAL GAS TRANSM
8130785	33216	4213331939		103		PENN B #1 (15599)	CISCO NORTHWEST (ELLEN)	6.0	BENGAL GAS TRANSM
-ENSERCH EXPLORATION INC						RECEIVED: 05/11/81 JA: TX			
8130515	19991	4249731653		103		G H COCANOUGHER NO 3	BOONSVILLE	180.0	LONE STAR GAS CO
8130759	33126	4236700000		108		P S BOWEN A NO 1	BOONSVILLE	18.0	LONE STAR GAS CO
-ERNEST W KUEHNE						RECEIVED: 05/11/81 JA: TX			
8130809	33267	4241733337		102-4		LUCION W BROOKS #1-A (90180)	BOWNE N (CADDO)	517.0	LONE STAR GAS CO
-ERSO INC						RECEIVED: 05/11/81 JA: TX			
8130679	31433	4236500000		103		CARTHAGE GAS UNIT WELL #35	CARTHAGE	365.0	TENNESSEE GAS PIP
8130679	31433	4236500000		107-TF		CARTHAGE GAS UNIT WELL #35	CARTHAGE	365.0	TENNESSEE GAS PIP
8130620	29707	4236500000		107-TF		CARTHAGE UNIT WELL #32	CARTHAGE	365.0	TENNESSEE GAS PIP
8130621	29708	4236500000		107-TF		CARTHAGE UNIT WELL #38	CARTHAGE	365.0	TENNESSEE GAS PIP
-EXXON CORPORATION						RECEIVED: 05/11/81 JA: TX			
8130779	33174	4224730400		102-4		A M K BASS 33-T (91169)	KELSEY DEEP (ZONE 22-E N	200.0	TRUNKLINE GAS CO
8130542	22737	4224531225		103		AMELIA OIL UNIT #28 WELL #4	AMELIA (FRIO 6)	34.7	HOUSTON PIPELINE
8130519	20634	4222732004		103		DOUTHIT UNIT #139	HOWARD GLASSCOCK	0.0	PHILLIPS PETROLEU
8130518	20633	4222731990		103		DOUTHIT UNIT #207	HOWARD GLASSCOCK	0.1	PHILLIPS PETROLEU
*8130582	25844	4208930650		107-DP		EAST HAMEL EDWARDS GAS UNIT 1 #1	HAMEL EAST (EDWARDS)	0.0	ARMCO STEEL CORP
8130684	31854	4239931550		103		FT CHADBOURNE ODOM LIME #2301	FORT CHADBOURNE	22.0	EL PASO NATURAL G
*8130638	30327	4249930789		103		HAWKINS FIELD UNIT #4230	HAWKINS	18.0	ARMCO STEEL CORP
8130845	33396	4210332362		103		J B TUBB A/C 1 #230L	SAND HILLS (TUBB)	16.0	EL PASO NATURAL G
8130846	33397	4210332370		103		J B TUBB A/C 1 #234L	SAND HILLS (TUBB)	4.0	EL PASO NATURAL G
8130844	33395	4210332399		103		J B TUBB A/C 1 #236U	SAND HILLS (MC KNIGHT)	163.0	EL PASO NATURAL G
8130847	33398	4210332422		103		J B TUBB A/C 1 #240U	SAND HILLS (MCKNIGHT)	41.0	EL PASO NATURAL G
*8130570	24361	4227331313		102-4		K R ALAZAN 312-D (80452)	HINOJOSA N	500.0	ARMCO STEEL CORP
*8130547	22992	4227331168		103		KING RANCH SEELIGSON C-192-F 76374	SEELIGSON	365.0	ARMCO STEEL CORP
8130843	33394	4200332360		103		MEANS (SAN ANDRES) UNIT #750	MEANS	1.0	PHILLIPS PETROLEU
8130840	33391	4200332526		103		MEANS/SAN ANDRES/UNIT #1560	MEANS	3.0	PHILLIPS PETROLEU
8130841	33392	4200332551		103		MEANS/SAN ANDRES/UNIT #1772	MEANS	7.0	PHILLIPS PETROLEU
8130842	33393	4200332552		103		MEANS/SAN ANDRES/UNIT #1774	MEANS	16.0	PHILLIPS PETROLEU
8130567	24183	4224730913		102-4		MRS A M K BASS 42-F (87114)	KELSEY DEEP (ZONE 18-6 W	100.0	TRUNKLINE GAS CO
8130568	24239	4226130511		102-4		SARITA FIELD OIL & GAS UNIT 149-F	SARITA (15-S W)	1000.0	NATURAL GAS PIPEL
-FLAG-REDFERN OIL CO						RECEIVED: 05/11/81 JA: TX			
8130724	33042	4246131584		103		WINDHAM 158 NO 1 WELL #08648	KING MOUNTAIN N (BEND)	54.8	WARREN PETROLEUM
-FOREST OIL CORPORATION						RECEIVED: 05/11/81 JA: TX			
8130640	30439	4221531031		103		A A MCALLEN NO 20	MCALLEN RANCH (VICKSBURG	110.0	VALERO TRANSMISSI
8130640	30439	4221531031		107-TF		A A MCALLEN NO 20	MCALLEN RANCH (VICKSBURG	110.0	VALERO TRANSMISSI
-GAS PRODUCING ENTERPRISES INC						RECEIVED: 05/11/81 JA: TX			
8130545	22947	4237530701		103		MASTERSON 84-TRD	PANHANDLE RED CAVE	32.0	COLORADO INTERSTA
-GENERAL PRODUCTION CORP						RECEIVED: 05/11/81 JA: TX			
8130796	33237	4205131218		103		FRANK C ANDERSON NO 6	WILLARD (NAVARRO) FIELD	0.0	FERGUSON CROSSING
-GETTY OIL COMPANY						RECEIVED: 05/11/81 JA: TX			
8130556	23286	4241732771		103		G R DAVIS WELL NO 2	WINDHAM NORTH (MORRIS)	219.0	LONE STAR GAS CO
8130576	25422	4200130865		103		G W WARE #20	CAYUGA	21.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8130723	33941	4235331035		103		LAKE TRAMMEL UNIT #98	LAKE TRAMMEL W (CANYON)	2.0	WEST LAKE NATURAL
8130573	24974	4236531012		103		SHIVERS UNIT WELL #3	CARTHAGE (TRAVIS PEAK 64	90.0	UNITED GAS PIPELI
8130549	23022	4200730624		102-4		T S T 196-197 UNIT I WELL NO 1	ROCKPORT (FRIO 10900)	685.0	VALERO TRANSMISSI
8130575	25061	4236500000		103		VERA HARRISON A #1	CARTHAGE (TRAVIS PEAK)	0.0	UNITED GAS PIPELI
8130566	24150	4236500000		103		WERNER-SMITH #3	CARTHAGE (COTTON VALLEY)	427.0	DELHI GAS PIPELIN
-GOLDKING PRODUCTION COMPANY				RECEIVED: 05/11/81 JA: TX					
8130551	23158	4235531477		102-4		CELANESE CORP NO 1	BIG CAESAR E (7250)	180.0	HOUSTON PIPE LINE
8130657	30932	4212331084		103		E R RODE NO 1-T	COTTONWOOD CREEK S	123.0	HOUSTON PIPE LINE
8130623	29839	4205730944		103		P SCOTT ET AL NO 1	PORT LAVACA (6100)	91.0	HOUSTON PIPE LINE
-GULF OIL CORPORATION				RECEIVED: 05/11/81 JA: TX					
8130743	33093	4207931286		103		DUGGAN SLAUGHTER UNIT NO 801A	SLAUGHTER	14.6	AMOCO PRODUCTION
8130733	33061	4207931284		103		DUGGAN SLAUGHTER UNIT NO 811A	SLAUGHTER	8.2	AMOCO PRODUCTION
8130639	30366	4247532153		103		HUTCHINGS STOCK ASSN WELL NO 1105	WARD-ESTES NORTH	3.0	CABOT CORP
8130646	30666	4221131201		103		MACIAS #1-127L	ALPAR/TONKAWA	54.0	CITIES SERVICE GA
8130745	33102	4230130234		103		MARY BAGWELL ET AL NO 1	WHEAT	52.0	PHILLIPS PETROLEU
8130732	33060	4230130247		103		MARY BAGWELL ET AL NO 2	WHEAT	18.0	PHILLIPS PETROLEU
8130746	33103	4238931148		107-DP		STATE SCHOOL BRD ZZ NO 6	WORSHAM-BAYER (ELLENBURG	4685.0	TRANSWESTERN PIPE
8130730	33058	4230130244		103		TXL AI (NCT-A) WELL NO 12	WHEAT	16.0	PHILLIPS PETROLEU
8130729	33057	4230130233		103		TXL AI NCT-A NO 10	WHEAT	41.0	PHILLIPS PETROLEU
8130727	33055	4230130248		103		TXL AI NCT-A NO 11	WHEAT	14.0	PHILLIPS PETROLEU
8130728	33056	4230130274		103		TXL AI NCT-A NO 13	WHEAT	5.0	PHILLIPS PETROLEU
8130731	33059	4230130229		103		TXL AI NCT-A WELL NO 9	WHEAT	24.0	PHILLIPS PETROLEU
8130752	33110	4210332229		103		W N WADDELL ET AL NO 1147	SAND HILLS (JUDKINS)	19.0	H & T GATHERING
8130754	33112	4210332285		103		W N WADDELL ET AL NO 1156	SAND HILLS (JUDKINS)	267.0	H & T GATHERING
8130749	33107	4210332265		103		W N WADDELL ET AL NO 1162	SAND HILLS (JUDKINS)	336.0	H & T GATHERING
8130750	33108	4210332295		103		W N WADDELL ET AL NO 1163	SAND HILLS (JUDKINS)	267.0	H & T GATHERING
8130769	33160	4210332283		103		W N WADDELL ET AL NO 1168	SAND HILLS (JUDKINS)	336.0	H & T GATHERING
8130767	33158	4210332264		103		W N WADDELL ET AL NO 1169	SAND HILLS (JUDKINS)	600.0	H & T GATHERING
8130832	33365	4210332408		103		W N WADDELL ET AL NO 1174	SAND HILLS (WICHITA ALBA	631.0	H & T GATHERING
-H-M OIL CO				RECEIVED: 05/11/81 JA: TX					
8130677	31390	4213134977		102-4		AVELINO GARCIA #1	WILDCAT (ABOVE 6800) PRO	180.0	UNITED GAS PIPELI
8130663	31109	4248131803		102-4		REDWINE #1	ALLEN (6970)	200.0	TENNESSEE GAS PIP
8130663	31109	4248131803		103		REDWINE #1	ALLEN (6970)	200.0	TENNESSEE GAS PIP
-HANSON MINERALS CO				RECEIVED: 05/11/81 JA: TX					
8130559	23368	4212330914		102-4		HILLER GAS UNIT #1	MEYERSVILLE SE (MV II)	73.4	TEXAS EASTERN TRA
8130559	23368	4212330914		103		HILLER GAS UNIT #1	MEYERSVILLE SE (MV II)	73.4	TEXAS EASTERN TRA
-HILL PRODUCTION CO				RECEIVED: 05/11/81 JA: TX					
8130615	28891	4240330840		103		EUNICE B STEPHENS GAS UNIT NO 2	OAK HILL	360.0	DELHI GAS PIPELIN
8130615	28891	4240330840		107-TF		EUNICE B STEPHENS GAS UNIT NO 2	OAK HILL	360.0	DELHI GAS PIPELIN
8130681	31497	4240130842		103		T W HARRIS #1 84330	POD (COTTON VALLEY)	100.0	DELHI GAS PIPELIN
8130681	31497	4240130842		107-TF		T W HARRIS #1 84330	POD (COTTON VALLEY)	100.0	DELHI GAS PIPELIN
-HNG OIL COMPANY				RECEIVED: 05/11/81 JA: TX					
8130701	32373	4243532225		103		BLOODWORTH 139-3 (84617)	SAWYER/CANYON/	84.0	INTRATEX GAS CO
8130701	32373	4243532225		107-TF		BLOODWORTH 139-3 (84617)	SAWYER/CANYON/	84.0	INTRATEX GAS CO
8130708	32695	4243532359		103		BLOODWORTH 140-4 (90116)	SAWYER/CANYON/	219.0	INTRATEX GAS CO
8130708	32695	4243532359		107-TF		BLOODWORTH 140-4 (90116)	SAWYER/CANYON/	219.0	INTRATEX GAS CO
8130699	32371	4243532200		103		ESPY 57 #3 (84245)	SAWYER/CANYON/	54.8	INTRATEX GAS CO
8130699	32371	4243532200		107-TF		ESPY 57 #3 (84245)	SAWYER/CANYON/	54.8	INTRATEX GAS CO
8130698	32369	4243532210		103		HICKS 60-3 (84246)	SAWYER/CANYON/	1.1	INTRATEX GAS CO
8130698	32369	4243532210		107-TF		HICKS 60-3 (84246)	SAWYER/CANYON/	1.1	INTRATEX GAS CO
8130697	032368	4243532206		103		HICKS 60-4 (84247)	SAWYER/CANYON/	73.0	INTRATEX GAS CO
8130697	032368	4243532206		107-TF		HICKS 60-4 (84247)	SAWYER/CANYON/	73.0	INTRATEX GAS CO
8130696	32367	4243532215		103		PFLUGER 89-3 (84471)	SAWYER/CANYON/	146.0	INTRATEX GAS CO
8130696	32367	4243532215		107-TF		PFLUGER 89-3 (84471)	SAWYER/CANYON/	146.0	INTRATEX GAS CO

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8130700	32372	4243532214		103		PFLUGER 89-4 (84728)	SAWYER/CANYON/	16.8	INTRATEX GAS CO
8130700	32372	4243532214		107-TF		PFLUGER 89-4 (84728)	SAWYER/CANYON/	16.8	INTRATEX GAS CO
8130702	32374	4243532245		103		SIMMONS 72-3 (85437)	SAWYER/CANYON/	89.8	INTRATEX GAS CO
8130702	32374	4243532245		107-TF		SIMMONS 72-3 (85437)	SAWYER/CANYON/	89.8	INTRATEX GAS CO
-HOOKS BROTHERS OIL CO				RECEIVED: 05/11/81 JA: TX					
8130628	30139	4223330785		103		THOMPSON B #4 01015	PANHANDLE HUTCHINSON COU	6.0	PHILLIPS PETROLEU
8130629	30140	4223330785		103		THOMPSON B #5 01015	PANHANDLE HUTCHINSON COU	0.0	PHILLIPS PETROLEU
-HOUSTON OIL & MINERALS CORPORATION				RECEIVED: 05/11/81 JA: TX					
8130805	33254	4228730801		103		FOEHR NO 1	GIDDINGS (AUSTIN CHALK)	6.0	P&P GAS PRODUCTS
-HUGHES & HUGHES				RECEIVED: 05/11/81 JA: TX					
8130819	33318	4228730542		103		ARMADILLO #1	GIDDINGS (AUSTIN CHALK)	101.6	CLAJON GAS CO
8130685	31868	4235531612		102-4		W C BERNSEN ET UX A	MINNIE BOCK EAST (BERNSE	730.0	FERGUSON CROSSING
-HUMBLE EXPLORATION CO INC				RECEIVED: 05/11/81 JA: TX					
8130535	21872	4214930359		102-2		BETTY PETZOLD #1 - 12517	GIDDINGS	558.8	PHILLIPS PETROLEU
8130535	21872	4214930359		103		BETTY PETZOLD #1 - 12517	GIDDINGS	558.8	PHILLIPS PETROLEU
8130538	22371	4247730326		102-2		BRENDA WILCOX #1 - 12742	GIDDINGS - AUSTIN CHALK	42.7	PHILLIPS PETROLEU
8130538	22371	4247730326		103		BRENDA WILCOX #1 - 12742	GIDDINGS - AUSTIN CHALK	42.7	PHILLIPS PETROLEU
8130530	21494	4228730537		102-2		DOROTHY LUECKE - 12547	GIDDINGS	108.7	PHILLIPS PETROLEU
8130530	21494	4228730537		103		DOROTHY LUECKE - 12547	GIDDINGS	108.7	PHILLIPS PETROLEU
8130683	31716	4228700000		102-4		EMMA HUFF #1	GIDDINGS	0.0	PHILLIPS PETROLEU
8130683	31716	4228700000		103		EMMA HUFF #1	GIDDINGS	0.0	PHILLIPS PETROLEU
8130533	21870	4228730317		102-2		LAURA #1 - 12203	GIDDINGS	14.0	PHILLIPS PETROLEU
8130533	21870	4228730317		103		LAURA #1 - 12203	GIDDINGS	14.0	PHILLIPS PETROLEU
8130532	21497	4247730318		102-2		LILI MARLENE - 12766	GIDDINGS	93.4	PHILLIPS PETROLEU
8130532	21497	4247730318		103		LILI MARLENE - 12766	GIDDINGS	93.4	PHILLIPS PETROLEU
8130537	22296	4228730548		102-2		PAULA STANDRIDGE #1 - 12574	GIDDINGS	142.7	PHILLIPS PETROLEU
8130537	22296	4228730548		103		PAULA STANDRIDGE #1 - 12574	GIDDINGS	142.7	PHILLIPS PETROLEU
8130534	21871	4214930355		102-2		POMPEIA #1 WELL - 12514	GIDDINGS AUSTIN CHALK	294.0	PHILLIPS PETROLEU
8130534	21871	4214930355		103		POMPEIA #1 WELL - 12514	GIDDINGS AUSTIN CHALK	294.0	PHILLIPS PETROLEU
8130539	22375	4214930361		102-2		SERVILIA #1 - 12525	GIDDINGS (AUSTIN CHALK)	25.0	PHILLIPS PETROLEU
8130539	22375	4214930361		103		SERVILIA #1 - 12525	GIDDINGS (AUSTIN CHALK)	25.0	PHILLIPS PETROLEU
8130546	22962	4228730608		102-4		TERESA GARRETT #1 - 87465	GIDDINGS (AUSTIN CHALK-G	186.2	PHILLIPS PETROLEU
8130546	22962	4228730608		103		TERESA GARRETT #1 - 87465	GIDDINGS (AUSTIN CHALK-G	186.2	PHILLIPS PETROLEU
8130531	21496	4228730470		102-2		VENUS - 12276	GIDDINGS	901.5	PHILLIPS PETROLEU
8130531	21496	4228730470		103		VENUS - 12276	GIDDINGS	901.5	PHILLIPS PETROLEU
-I B BEREN				RECEIVED: 05/11/81 JA: TX					
8130690	32152	4250300000		102-4		VAUGHAN NO 3 90237	VAUGHAN (1400)	115.0	SOUTHWESTERN GAS
-INDIAN WELLS OIL CO				RECEIVED: 05/11/81 JA: TX					
8130654	30905	4223531577		103		TANKERSLEY 712 #1	IRION WEST (CANYON)	15.0	NORTHERN NATURAL
-J-W OPERATING COMPANY				RECEIVED: 05/11/81 JA: TX					
8130611	28578	4212331055		102-4		E C SHAEFFER #3	COTTONWOOD CREEK S	73.0	VALERO TRANSMISSI
8130610	28569	4212331086		102-4		E C SHAEFFER #4	COTTONWOOD CREEK SOUTH	73.0	VALERO TRANSMISSI
8130609	28568	4212331061		102-4		GEORGE STANCHOS B #1	STANCHOS (YEGUA)	6.7	VALERO TRANSMISSI
8130612	28579	4212331065		102-4		R FOEGELLE #1	STANCHOS (YEGUA)	11.0	VALERO TRANSMISSI
-JAMES K ANDERSON INC				RECEIVED: 05/11/81 JA: TX					
8130619	29607	4239931591		102-4		ODELL A NO 1	W WINGATE	60.0	LONE STAR GAS CO
8130619	29607	4239931591		103		ODELL A NO 1	W WINGATE	60.0	LONE STAR GAS CO
-JATAM INC				RECEIVED: 05/11/81 JA: TX					
8130795	33236	4243130927		103		JATAM INC KNIGHT - 142 (#1)	JAMESON (STRAWN)	48.0	SUN OIL CO
-JOHN L COX				RECEIVED: 05/11/81 JA: TX					
8130528	21321	4217331023		103		ALBY CROUCH WELL NO 2-X RRC #08425	SPRABERRY (TREND AREA)	5.0	EL PASO NATURAL G
8130527	21304	4231732099		103		DICKENSON #3-X RRC #21525	SPRABERRY (TREND AREA)	10.0	ALPINE OIL CO
8130526	21296	4238331496		103		ROCKER B P #14-X RRC #05173	SPRABERRY (TREND AREA)	5.0	EL PASO NATURAL G

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME
						RECEIVED: 05/11/81 JA: TX
-JOHN R THOMPSON OPERATING INC						
8130837	33374	4220700000		103		HARRISON ESTATE B #1
						RECEIVED: 05/11/81 JA: TX
-K&M LTD						
8130599	27430	4250530608		102-4		L E VELA WELL NO 1
						RECEIVED: 05/11/81 JA: TX
-KAISER-FRANCIS OIL COMPANY						
8130595	27211	4248330637		102-4		FRANKLIN #1
						RECEIVED: 05/11/81 JA: TX
-KEITH D GRAHAM						
8130717	32907	4205131136		102-2		CARLOMAGNO UNIT #1
8130741	33083	4205131254		102-2		HCW #7 ID-12918
						RECEIVED: 05/11/81 JA: TX
-KILLAM & HURD LTD						
8130608	28258	4247932759		102-4		BRUNI MINERAL D WELL NO 2
						RECEIVED: 05/11/81 JA: TX
-KNOX INDUSTRIES INC						
8130734	33064	4238331517		103		DIXON A #3
						RECEIVED: 05/11/81 JA: TX
-LEAR PETROLEUM CORPORATION						
8130583	10355	4208700000		108		POLK LEASE WELL NO 12
						RECEIVED: 05/11/81 JA: TX
-LEWIS B BURLESON						
8130721	33021	4237133169		103		PUCKETT STATE A 1
						RECEIVED: 05/11/81 JA: TX
-LONGHORN RESOURCES INC						
8130783	33213	4236731952		103		NEWBERRY #1-C (91398)
						RECEIVED: 05/11/81 JA: TX
-LOUISIANA LAND & EXPLORATION CO						
8130589	26960	4214330461		102-4		I W YOUNG NO 1
						RECEIVED: 05/11/81 JA: TX
-MADDOX ENERGY CORPORATION						
8130618	29506	4237100000		107-DP		FROST NATIONAL BANK STATE WELL #1
						RECEIVED: 05/11/81 JA: TX
-MARSHALL EXPLORATION INC						
8130602	27640	4236531090		103		SPRADLEY #1-LT
8130602	27640	4236531090		107-TF		SPRADLEY #1-LT
						RECEIVED: 05/11/81 JA: TX
-MAY PETROLEUM INC						
8130666	31122	4229530790		103		ALTMILLER #1
8130665	31121	4229530854		103		NEWMAN A #1
						RECEIVED: 05/11/81 JA: TX
-MCCORMICK OPERATING CO						
8130632	30214	4240131004		103		SOONER GAS UNIT NO 3
8130632	30214	4240131004		107-TF		SOONER GAS UNIT NO 3
						RECEIVED: 05/11/81 JA: TX
-MCMORAN EXPLORATION CO						
8130544	22876	4221531021		102-4		COOK WELL #2-U
8130544	22876	4221531021		103		COOK WELL #2-U
						RECEIVED: 05/11/81 JA: TX
-MEYER MORITZ & CO INC						
8130571	24615	4243500000		103		BEHLING NO 1
8130571	24615	4243500000		107-TF		BEHLING NO 1
						RECEIVED: 05/11/81 JA: TX
-MITCHELL ENERGY CORPORATION						
8130614	28867	4249700000		108		A R JACKSON #2 17822
8130642	30470	4249737823		103		ADAMS-SOUTHWEST #4
*8130587	26287	4229330480		107-TF		ARTHUR CLIFTON #1
8130692	32241	4249731833		103		BERRY-CHERRYHOMES #2-U
8130719	32992	4236300000		108		C B EDMONSON #1
8130720	32993	4236300000		108		C B EDMONSON #12
8130718	32991	4236300000		108		C B EDMONSON #4
8130653	30856	4236731967		103		C L CAVENESS #3
8130603	27806	4229330457		103		J C PRICHARD GAS UNIT #1
8130606	28156	4229330457		107-TF		J C PRICHARD GAS UNIT #1
8130591	27021	4229330500		107-TF		MAE B VANCE #1
8130598	27425	4229330500		103		MAE B VANCE #1
8130604	27891	4249700000		108		MARIE WAGGONER #3 47242
8130588	26288	4229330477		107-TF		MUSE-TUCKER #1 87160

FIELD NAME	PROD	PURCHASER
HARRISON STRAWN	0.0	CITIES SERVICE CO
EL GRULLO (7780)	0.0	INTRASTATE GATHER
	100.0	PIONEER NATURAL G
CALDWELL (AUSTIN CHALK)	226.7	FERGUSON CROSSING
GIDDINGS (AUSTIN CHALK)	135.4	CLAJON GAS CO
JUANITA (LOBO)	0.0	HOUSTON PIPELINE
SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL
EAST PANHANDLE	0.4	EL PASO NATURAL G
BELDING (YATES)	12.0	APACHE GAS CORP
MOBY DICK (CONGL)	511.0	LONE STAR GAS CO
LIBERTY OAK (BIG SALINE)	51.0	NORTHERN GAS PROD
WILDCAT	456.0	EL PASO NATURAL G
BELLE BOWER (COTTON VALL	120.0	UNITED GAS PIPELI
BELLE BOWER (COTTON VALL	120.0	UNITED GAS PIPELI
MAMMOTH CREEK NORTH (CLE	182.5	NORTHERN NATURAL
MAMMOTH CREEK NORTH (CLE	109.5	NORTHERN NATURAL
OAK HILL (COTTON VALLEY)	0.0	HYDROCARBON TRANS
OAK HILL (COTTON VALLEY)	0.0	HYDROCARBON TRANS
MCALLEN SOUTH (EL TEXANO	350.0	TRANSCONTINENTAL
MCALLEN SOUTH (EL TEXANO	350.0	TRANSCONTINENTAL
SAWYER (CANYON)	50.0	INTRATEX GAS CO
SAWYER (CANYON)	50.0	INTRATEX GAS CO
MORRIS (CONSOLIDATED CON	7.0	UPHAM OIL & GAS
BOONSVILLE (BEND CONGL G	300.0	
NORTH PERSONVILLE (COTTO	0.0	SOUTHWESTERN GAS
CHICO WEST (CADDO CONGLO	3.0	NATURAL GAS PIPEL
BRAZOS (STRAWN)	0.0	SOUTHWESTERN GAS
BRAZOS (STRAWN)	0.0	SOUTHWESTERN GAS
BRAZOS (STRAWN)	0.0	SOUTHWESTERN GAS
RENO (CONGLOMERATE)	1000.0	NATURAL GAS PIPEL
NORTH PERSONVILLE (COTTO	0.0	
NORTH PERSONVILLE (COTTO	0.0	
EAST POKEY (COTTON VALLE	0.0	TEXAS UTILITIES F
EAST POKEY (COTTON VALLE	0.0	TEXAS UTILITIES F
BOONSVILLE (BEND CONGL G	6.0	NATURAL GAS PIPEL
PERSONVILLE N (COTTON VA	0.0	SOUTHWESTERN GAS

JD NO	JA CKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8130585	26284	4229330469		107-TF		PRESLEY-SADLER #1	POKEY FIELD (COTTON VALL	25.0	TEXAS UTILITIES F
8130605	28064	4236300000		108		R W MCCLURE #1 35237	GRAFORD (BEND CONGL)	3.5	SOUTHWESTERN GAS
8130586	26285	4229330449		107-TF		T J MCCLARAN #1 86214	FALLON (COTTON VALLEY)	0.0	SOUTHWESTERN GAS
				RECEIVED: 05/11/81 JA: TX					
-MOBIL PRDG TEXAS & NEW MEXICO INC									
8130742	33090	4223300000		108		JOHNSON RANCH NO 2	PANHANDLE WEST	4.5	J M HUBER CORP
8130648	30712	4230130235		107-DP		LACY ET AL UNIT NO 1	WILDCAT	1941.8	
8130794	33235	4221933114		103		MAPLE WILSON NO 100	SLAUGHTER	12.8	AMOCO PRODUCTION
8130672	31169	4230130228		107-DP		W D JOHNSON ET AL C NC 1	SLASH RANCH (FUSSELMAN)	346.8	INTRATEX GAS CO
				RECEIVED: 05/11/81 JA: TX					
-MORAN EXPLORATION INC									
8130790	33223	4223531547		103		MAYER A #4	SPRABERRY (TREND AREA)	0.0	NORTHERN NATURAL
8130506	15575	4223530312		108		ROCKER B J NO 5	SPRABERRY (TREND AREA)	12.8	NORTHERN NATURAL
				RECEIVED: 05/11/81 JA: TX					
-MORMAC OIL & GAS CO									
8130716	32900	4212732092		102-4		N C KING NO 3	STUMBERG (OLMOS 4150)	40.0	VALERO TRANSMISSI
				RECEIVED: 05/11/81 JA: TX					
-MURPHY H BAXTER									
8130670	31153	4202531426		103		FOX NO 1	BLANCONIA (4800)	180.0	
				RECEIVED: 05/11/81 JA: TX					
-NATURAL GAS ANADARKO INC									
8130744	33099	4235700000		108		J T TREW #1 RRC# 21911	ELLIS RANCH (CLEVELAND)	12.0	TRANSWESTERN PIPE
				RECEIVED: 05/11/81 JA: TX					
-NRM PETROLEUM CORPORATION									
8130521	20934	4208100000		103		HARRIS #1	LYGAY	90.0	SUN GAS CO
				RECEIVED: 05/11/81 JA: TX					
-NUCORP ENERGY INC									
8130722	33039	4214930739		102-2		MILLICENT BROWN SHELDEN #1 13697	GIDDINGS (AUSTIN CHALK)	214.3	PHILLIPS PETROLEU
				RECEIVED: 05/11/81 JA: TX					
-OJB INC									
8130705	32623	4210500000		103		PIERCE-HENDERSON 7-5	OZONA (CANYON SAND)	180.0	VALERO TRANSMISSI
8130705	32623	4210500000		107-TF		PIERCE-HENDERSON 7-5	OZONA (CANYON SAND)	180.0	VALERO TRANSMISSI
8130706	32624	4210500000		103		PIERCE-HENDERSON 8-2	OZONA (CANYON SAND)	180.0	VALERO TRANSMISSI
8130706	32624	4210500000		107-TF		PIERCE-HENDERSON 8-2	OZONA (CANYON SAND)	180.0	VALERO TRANSMISSI
				RECEIVED: 05/11/81 JA: TX					
-OLYMPIA OIL CO									
8130523	21049	4205932224		102-4		MCADOO #1 ID 83938	NUGENTS NOOK (STRAWN)	828.0	DELHI GAS PIPELIN
				RECEIVED: 05/11/81 JA: TX					
-PALO-PLACER									
8130645	30652	4246131523		103		AMACKER-HALFF 48-1	SPRABERRY (TREND AREA)	50.0	PHILLIPS PETROLEU
8130644	30554	4246131531		103		WAHLENMAIER 42-1	SPRABERRY TREND AREA	50.0	PHILLIPS PETROLEU
8130643	30553	4246131532		103		WAHLENMAIER 42-2	SPRABERRY (TREND AREA)	50.0	PHILLIPS PETROLEU
				RECEIVED: 05/11/81 JA: TX					
-PANHANDLE PRODUCING COMPANY									
8130703	32496	4223300000		108		AGUA DULCE-SANFORD #1 (23779)	PANHANDLE WEST	27.0	COLORADO INTERSTA
				RECEIVED: 05/11/81 JA: TX					
-PAR OIL CORPORATION									
8130529	21464	4236500000		103		MULLINS NO 1	CARTHAGE - COTTON VALLEY	400.0	ARKANSAS LOUISIAN
				RECEIVED: 05/11/81 JA: TX					
-PARAFFINE OIL CORP									
8130710	32711	4224931292		102-4		HERBERT SMITH NO 5	BEN BOLT (5800)	13.0	SEAGULL PIPELINE
8130710	32711	4224931292		103		HERBERT SMITH NO 5	BEN BOLT (5800)	13.0	SEAGULL PIPELINE
8130704	32523	4205731040		102-4		P H WELDER B NO 9-L	KATIE WELDER (N-2)	31.0	FLORIDA GAS TRANS
8130704	32523	4205731040		103		P H WELDER B NO 9-L	KATIE WELDER (N-2)	31.0	FLORIDA GAS TRANS
8130622	29723	4205731016		102-4		P H WELDER D 3-L	KATIE WELDER (L-7)	185.0	SEAGULL PIPELINE
8130622	29723	4205731016		103		P H WELDER D 3-L	KATIE WELDER (L-7)	185.0	SEAGULL PIPELINE
				RECEIVED: 05/11/81 JA: TX					
-PARAGON RESOURCES INC									
8130828	33336	4205130786		103		ASSENHEIMER #1	CALDWELL (AUSTIN CHALK)	30.0	FERGUSON CROSSING
8130740	33082	4231131447		102-4		HAGIST RANCH #1	LOMA ALTA WEST (YEGUA 36	150.0	VALERO TRANSMISSI
8130740	33082	4231131447		103		HAGIST RANCH #1	LOMA ALTA WEST (YEGUA 36	150.0	VALERO TRANSMISSI
				RECEIVED: 05/11/81 JA: TX					
-PARKER & PARSLEY INC									
8130736	33073	4232930937		103		BUCHANAN F WELL NO 1	SPRABERRY (TREND AREA)	15.0	PHILLIPS PETROLEU
8130543	22827	4232930872		103		FASKEN F WELL NO 1	SPRABERRY (TREND AREA)	15.0	PHILLIPS PETROLEU
				RECEIVED: 05/11/81 JA: TX					
-PENNZOIL PRODUCING COMPANY									
8130584	25990	4250530252		102-4		ALICIA R GUTIERREZ NO 1	JENNINGS SOUTH (WILCOX 8	100.0	VALERO INTERSTATE
				RECEIVED: 05/11/81 JA: TX					
-PERRYMAN OPERATING CO INC									

JD NO	JA DKT	API NO	D	SEC CAT	WELL NAME
8130671	31166	4221300000		102-2	JOHN CORLEY NO 1
8130671	31166	4221300000		107-TF	JOHN CORLEY NO 1
				RECEIVED: 05/11/81 JA: TX	
-PHILLIPS PETROLEUM COMPANY					
8130693	32247	4236530892		107-TF	BALL 2 NO 2
8130808	33266	4242100000		108	BUELOW #2
8130694	32248	4236530943		107-TF	CALLOW 2 NO 2
8130829	33338	4217900000		108	CLAY #5
8130517	20527	4223300000		108	COCKRELL RANCH #41
8130807	33265	4217900000		108	CUBINE M#1
8130725	33052	4213533520		103	GS ADOBE UNIT #23-6
8130513	19517	4205100000		108	HITCH - E #2
*8130525	21265	4234130579		103	LOVE #2
*8130541	22556	4234100000		103	MARY BETH NO 2
8130691	32207	4236531002		107-TF	PANOLA 2 WELL NO 2
8130766	33157	4243530422		108	WARD C NO 1
				RECEIVED: 05/11/81 JA: TX	
-QUEST PETROLEUM INC					
8130659	30951	4249700000		103	B A MOORE A-1
				RECEIVED: 05/11/81 JA: TX	
-R H ENGELKE					
8130674	31269	4223931172		102-4	JOHN M BENNETT B NO 1
8130674	31269	4223931172		103	JOHN M BENNETT B NO 1
8130667	31146	4223931175		103	JOHN M BENNETT B NO 3-C
8130668	31147	4223931175		103	JOHN M BENNETT B NO 3-T
				RECEIVED: 05/11/81 JA: TX	
-RALPH L WAY INC					
8130624	29852	4210532775		103	UNIVERSITY DYCO A #2
8130625	29863	4210532779		103	UNIVERSITY DYCO A #6
				RECEIVED: 05/11/81 JA: TX	
-REALITOS ENERGY CORP					
8130652	30823	4248132025		103	E HOLUB NO 1-T
8130656	30913	4246931651		103	WALTER E MUELLER NO 2
				RECEIVED: 05/11/81 JA: TX	
-SANCHEZ-OBRIEN MINERALS CORP					
8130597	27411	4229732330		102-4	NEVILLE P CLARKE NO 1
				RECEIVED: 05/11/81 JA: TX	
-SAXON OIL COMPANY					
8130815	33298	4246131647		103	WINDHAM D NO 1
				RECEIVED: 05/11/81 JA: TX	
-SEARCH DRILLING CO					
8130806	33255	4239330796		103	MAHLER #2-106
				RECEIVED: 05/11/81 JA: TX	
-SEELY OIL CO					
8130781	33207	4213332087		103	EUDY #1 ID #90267
				RECEIVED: 05/11/81 JA: TX	
-SHELL OIL CO					
8130664	31113	4221531033		103	A A MC ALLEN NO 64
				RECEIVED: 05/11/81 JA: TX	
-SIGMOR CORP					
8130658	30945	4208300000		103	LAMAR TURNER #4
				RECEIVED: 05/11/81 JA: TX	
-SIMPSON-MANN OIL PRODUCERS					
8130687	31883	4210532969		103	J M BAGGETT EST ET AL #4-2
				RECEIVED: 05/11/81 JA: TX	
-SKLAR & PHILLIPS OIL CO					
8130673	31268	4236531158		102-2	BRIGGS GAS UNIT NO 1
8130673	31268	4236531158		103	BRIGGS GAS UNIT NO 1
				RECEIVED: 05/11/81 JA: TX	
-SOHIO PETROLEUM CO					
8130647	30667	4240931364		103	MAX M FLOERKE JR ET AL WELL NO 2-R
				RECEIVED: 05/11/81 JA: TX	
-SOUTHWESTERN GAS EXPLORATION					
8130555	23269	4222130546		103	E L RHODES UNIT #1
8130550	23139	4223732147		103	LINDSAY RANCH #3
8130554	23223	4223732507		103	LINDSEY RANCH #5
8130553	23217	4236731536		103	LITTLE BEAR RANCH #3
8130536	22211	4249731453		103	LOUIS ENGLER #1

FIELD NAME	PROD	PURCHASER
THOMAS LAKE (COTTON VALL	400.0	TEXAS UTILITIES F
THOMAS LAKE (COTTON VALL	400.0	TEXAS UTILITIES F
CARTHAGE COTTON VALLEY	350.0	UNITED GAS PIPELI
TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
CARTHAGE COTTON VALLEY	365.0	UNITED GAS PIPELI
PANHANDLE GRAY	0.0	
PANHANDLE	16.0	GETTY OIL CO
PANHANDLE EAST	0.0	
GOLDSMITH (5600)	3.7	EL PASO NATURAL G
HITCHLAND WEST	18.0	PANHANDLE EASTERN
PANHANDLE WEST	69.0	EL PASO NATURAL G
PANHANDLE WEST	0.0	EL PASO NATURAL G
CARTHAGE COTTON VALLEY	365.0	UNITED GAS PIPELI
SONORA (CANYON UPPER)	22.9	INTRATEX GAS CO
BOONSVILLE (BEND-CONGL B	0.0	LONE STAR GAS CO
LA SALLE (5735)	190.2	TENNESSEE GAS PIP
LA SALLE (5735)	190.2	TENNESSEE GAS PIP
LA SALLE	241.6	TENNESSEE GAS PIP
LA SALLE	110.9	TENNESSEE GAS PIP
FARMER (SAN ANDRES)	3.2	NORTHERN NATURAL
FARMER (SAN ANDRES)	12.2	NORTHERN NATURAL
EL CAMPO S (6850)	185.0	DOW CHEMICAL CO
COLOGNE	15.0	TENNESSEE GAS PIP
SOL WEST (SECOND MACKHAN	500.0	UNITED TEXAS TRAN
SPRABERRY (TREND AREA)	24.1	EL PASO NATURAL G
MENCOTA NW	492.0	PHILLIPS PETROLEU
EASTLAND COUNTY REGULAR	72.0	LONE STAR GAS CO
MC ALLEN RANCH (VICKSBUR	400.0	VALERO INTERSTATE
BETLIN (FRY) FIELD	180.0	BRADY TEXAS MUNIC
ADAMS-BAGGETT RANCH (CAN	40.0	VALERO TRANSMISSI
NO BECKVILLE (COTTON VAL	200.0	ARKANSAS LOUISIAN
NO BECKVILLE (COTTON VAL	200.0	ARKANSAS LOUISIAN
MIDWAY EAST (10700)	139.0	TEXAS EASTERN TRA
BRATTEN (MARBLE FALLS)	18.6	
KAMBERGER (ATOKA)	32.0	SOUTHWESTERN GAS
JACK COUNTY REGULAR (OIL	5.9	SOUTHWESTERN GAS
ALEDO S (ATOKA)	44.6	
BOONSVILLE (BEND CONGL G	200.0	

JD NO	JA LKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8130552	23212	4214330370		103		PARKEY RANCH #8	MORGAN MILL (MARBLE FALL	353.3	ENERGY PIPELINE C
-SPENCER & HUTSON				RECEIVED: 05/11/81 JA: TX					
8130830	33363	4214930606		103		PAMALA NO 1	GIDDINGS (AUSTIN CHALK)	32.5	PHILLIPS PETROLEU
-SUN OIL COMPANY (DELAWARE)				RECEIVED: 05/11/81 JA: TX					
8130524	21163	4249731188		103		DORA MORRIS UNIT NO 2	BOONSVILLE	55.0	NATURAL GAS PIPEL
8130649	30717	4213533311		103		E GOLDSMITH HOLT UT NO 6-4L	GOLDSMITH E (HOLT)	2.0	PHILLIPS PETROLEU
8130650	30718	4213533311		103		EAST GOLDSMITH SAN ANDRES UT #6-4U	GOLDSMITH E (SAN ANDRES)	25.0	PHILLIPS PETROLEU
8130520	20750	4240100000		108		FINNEY NO 6	EAST TEXAS	0.5	PARADE CO
8130507	15595	4246931282		103		W H BENNETT WELL NO 16-U	HEYSER	73.0	TENNESSEE GAS PIP
8130662	31093	4207931091		103		WRIGHT UNIT NO 6-35	LEVELLAND	7.3	CITIES SERVICE CO
-TAUBERT & STEED				RECEIVED: 05/11/81 JA: TX					
8130695	32330	4226930793		102-4		S B BURNETT ESTATE GG 5	BIG-S-(CONGLOMERATE)	1.0	LONE STAR GAS CO
-TENNECO OIL COMPANY				RECEIVED: 05/11/81 JA: TX					
8130501	03929	4237330399		103		KINGSBURY CO HOLDING CORP #3-A	LIVINGSTON	188.0	UNITED TEXAS TRAN
8130669	31148	4217930751		103		WORLEY #98	PANHANDLE GRAY COUNTY	56.0	PHILLIPS PETROLEU
-TEXAS INTERNATIONAL PET CORP				RECEIVED: 05/11/81 JA: TX					
8130818	33312	4205131144		102-2		SHUPAK #3	GIDDINGS (AUSTIN CHALK)	183.0	CLAJON GAS CO
-TEXAS OIL & GAS CORP				RECEIVED: 05/11/81 JA: TX					
8130590	27007	4240130966		103		HEDGE A #1	OAK HILL (COTTON VALLEY)	500.0	DELHI GAS PIPELIN
8130590	27007	4240130966		107-TF		HEDGE A #1	OAK HILL (COTTON VALLEY)	500.0	DELHI GAS PIPELIN
8130596	27215	4216130596		102-2		NANNY #1	BEAR GRASS NE (COTTON VA	1.0	
8130596	27215	4216130596		103		NANNY #1	BEAR GRASS NE (COTTON VA	1.0	
-TEXAS PACIFIC OIL COMPANY INC				RECEIVED: 05/11/81 JA: TX					
8130540	22417	4213300000		102-4		N C GAILEY ET AL WELL NO 1	GAILEY (CONGL)	109.5	SOUTHWESTERN GAS
8130569	24302	4221932824		103		NORTHEAST LEVELLAND UNIT #13-A	LEVELLAND	7.5	AMOCO PRODUCTION
-THE DOW CHEMICAL COMPANY				RECEIVED: 05/11/81 JA: TX					
8130823	33325	4234931254		102-4		FARMER OIL UNIT A WELL NO 1	CHENEYBORO	146.0	LONE STAR GAS CO
8130824	33326	4234931422		102-4		FARMER OIL UNIT B WELL NO 2	CHENEYBORO	36.0	LONE STAR GAS CO
8130822	33324	4234931299		102-4		HAYES OIL UNIT A WELL NO 1	CHENEYBORO	36.0	LONE STAR GAS CO
8130825	33327	4234931352		102-4		HAYES OIL UNIT C WELL NO 3	CHENEYBORO	72.0	LONE STAR GAS CO
8130821	33323	4234931375		102-4		RAYMOND HAYES WELL NO 2	CHENEYBORO	36.0	LONE STAR GAS CO
-TRAVELERS OIL CO				RECEIVED: 05/11/81 JA: TX					
8130737	33075	4217900000		108		HAYNES A #4 00486	PANHANDLE GRAY COUNTY	8.0	PHILLIPS PETROLEU
8130738	33076	4217900000		108		HAYNES A #6 00486	PANHANDLE GRAY COUNTY	9.0	PHILLIPS PETROLEU
8130739	33077	4217900000		108		HAYNES C #3 00402	PANHANDLE GRAY COUNTY	5.0	PHILLIPS PETROLEU
-UNION OIL COMPANY OF CALIF				RECEIVED: 05/11/81 JA: TX					
8130747	33104	4229500000		108		GEORGE H ROBBINS B #3	KELLN (TONKAWA-OIL)	14.0	PHILLIPS PETROLEU
8130709	32704	4260330137		102-4		STATE LEASE 73379 WELL NO 1	STEAMBOAT PASS S (5000)	1825.0	
-UNION TEXAS PETROLEUM				RECEIVED: 05/11/81 JA: TX					
8130851	33405	4223531443		103		FARMAR 43-10 #1	ROCK PEN (CANYON) CANYON	43.3	CRA INC
8130834	33368	4223531519		103		FARMAR 43-10 #2	ROCK PEN (CANYON) CANYON	22.5	CRA INC
8130831	33364	4223531180		103		FARMAR 44 #1	ROCK PEN (CANYON) CANYON	50.1	CRA INC
8130850	33404	4223531259		103		FARMAR 44 #2	ROCK PEN (CANYON) CANYON	50.0	CRA INC
8130853	33407	4223531265		103		FARMAR 44 #3	ROCK PEN (CANYON) CANYON	49.8	CRA INC
8130848	33401	4223531295		103		FARMAR 44 #4	ROCK PEN (CANYON) CANYON	61.0	CRA INC
8130849	33403	4223531238		103		FARMAR 55 #1	ROCK PEN (CANYON) CANYON	23.0	CRA INC
8130852	33406	4223531239		103		FARMAR 57 #3	ROCK PEN (CANYON) CANYON	48.2	CRA INC
8130782	33208	4223531237		103		FARMAR 57 #4	ROCK PEN (CANYON) CANYON	65.4	CRA INC
-UPHAM OIL & GAS CO				RECEIVED: 05/11/81 JA: TX					
8130574	25032	4249700000		108		N H DAVIS #4 RRC #86076	BOONSVILLE (BASAL ATOKA)	9.5	LONE STAR GAS CO
-W A MONCRIEF JR				RECEIVED: 05/11/81 JA: TX					
8130682	31628	4236731259		108		MONCRIEF RANCH NO E	MONCRIEF RANCH (STRAWN)	3.4	SOUTHWESTERN GAS
-W H PRICE				RECEIVED: 05/11/81 JA: TX					

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8130522	21018	4235330731		102-4		WHITESIDE #1	GROUP S (CANYON REEF)	14.0	PALO DURO PIPELIN
-WAINOCO OIL & GAS COMPANY				RECEIVED: 05/11/81 JA: TX					
8130511	19277	4224531311		103		W C GILBERT EST NO 1	GILBERT RANCH (8700)	550.0	SOUTHWESTERN GAS
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 05/11/81 JA: TX					
8130854	33408	4210332356		103		J B TUBB ET AL NO 33	SAND HILLS (TUBB)	74.0	EL PASO NATURAL G
8130827	33334	4210332374		103		P J LEA ET AL NO 111	LEA (SAN ANDRES)	25.0	EL PASO NATURAL G
8130826	33332	4210332370		103		P J LEA ET AL NO 112	LEA (SAN ANDRES)	24.0	EL PASO NATURAL G
8130753	35111	4210332306		103		W N WADDELL ET AL NO 1153	RUNNING W (TUBB)	10.0	EL PASO NATURAL G
8130755	33113	4210332285		103		W N WADDELL ET AL NO 1156	RUNNING W (TUBB)	4.0	EL PASO NATURAL G
8130748	33105	4210332293		103		W N WADDELL ET AL NO 1165	SAND HILLS (JUDKINS)	134.0	EL PASO NATURAL G
8130756	33114	4210332281		103		W N WADDELL ET AL NO 1166	SAND HILLS (JUDKINS)	43.0	EL PASO NATURAL G
8130770	33161	4210332284		103		W N WADDELL ET AL NO 1167	SAND HILLS (JUDKINS)	80.0	EL PASO NATURAL G
8130768	33159	4210332359		103		W N WADDELL ET AL NO 1172	RUNNING W (TUBB)	145.0	EL PASO NATURAL G
8130833	33366	4210832361		103		W N WADDELL ET AL NO 1173	LEA (SAN ANDRES)	25.0	EL PASO NATURAL G
8130816	33305	4210332388		103		W N WADDELL NO 1138	DUNE	3.0	EL PASO NATURAL G
8130817	33306	4210332393		103		W N WADDELL NO 1140	WADDELL	2.0	EL PASO NATURAL G
8130751	33109	4210332303		103		W N WADDELL TR 3 NO 1117-A	UNIVERSITY-WADDELL (DEVO	0.0	EL PASO NATURAL G
-WOOD MCSHANE & THAMS				RECEIVED: 05/11/81 JA: TX					
8130810	33269	4249531270		103		KEYSTONE CATTLE CO #1-H RRC #26369	KEYSTONE HOLT	401.5	PIONEER NATURAL G
-WORLD PRODUCERS INC				RECEIVED: 05/11/81 JA: TX					
8130578	25803	4236332088		102-0		GOEN C #4	VAN DYKE (ATOKA)	40.0	NATURAL GAS PIPEL
8130579	25804	4236332362		102-0		GOEN F #7	VAN DYKE (ATOKA)	40.0	NATURAL GAS PIPEL
8130580	25805	4236332382		102-4		WHARTON B #3	VAN DYKE (ATOKA)	40.0	NATURAL GAS PIPEL
-1400 CORP				RECEIVED: 05/11/81 JA: TX					
8130688	31972	4247900000		102-4		WEBB COUNTY SCHOOL LAND NO 1 61305	RANCHO PRADO (WILCOX LR	0.0	TRANSCONTINENTAL

OTHER PURCHASERS

8130525 PANHANDLE EASTERN P/L CO
8130541 PANHANDLE EASTERN P/L CO
8130547 HOUSTON LIGHTING AND POWER CO
8130570 HOUSTON LIGHTING & POWER CO
8130587 LONE STAR GAS CO
8130638 HOUSTON LIGHTING & POWER CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 2, 1981.

Categories within each NGPA section are indicated by the following codes:

Section:

102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–18010 Filed 6–16–81; 8:45 am]
BILLING CODE 6450–85–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: June 11, 1981.

JD NO	JA DAT	API NO	C SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION							
-HERNDON OIL & GAS CO			RECEIVED: 05/18/81 JA: KS				
8131012	K-80-0744	1519100000	108-ER	SHUTLER #1	MURPHY	5.5	CITIES SERVICE GA
-MCKELVY OPERATING CORP			RECEIVED: 05/18/81 JA: KS				
8131013	K-79-1630	1505500000	108-ER	SPIKES #29	HUGOTON	12.0	CITIES SERVICE GA
-PAN EASTERN EXPLORATION COMPANY			RECEIVED: 05/15/81 JA: KS				
8131018	K 81-0072	1517500000	108-SA	HARNDEN #1	HUGOTON	55.0	PANHANDLE EASTERN
-R J PATRICK OPERATING CO			RECEIVED: 05/18/81 JA: KS				
8131011	K-81-0221	1503320369	102-4	RALPH BAKER NO 1 - MISSISSIPPIAN		91.3	NORTHERN NATURAL
KENTUCKY DEPARTMENT OF MINES & MINERALS							
-ASHLAND EXPLORATION INC			RECEIVED: 05/14/81 JA: KY				
8130933	502051	1619500000	108	CASSADY J W #2 - 005240	EASTERN KENTUCKY GAS	21.0	COLUMBIA GAS TRAN
8130934	502052	1619500000	108	CASSADY J W #3 005400	EASTERN KENTUCKY GAS	20.0	COLUMBIA GAS TRAN
8130929	502047	1619500000	108	COLONY COAL & COKE #2 - 003390	EASTERN KENTUCKY GAS	16.0	COLUMBIA GAS TRAN
8130930	502048	1619500000	108	COLONY COAL & COKE #33 - 010580	EASTERN KENTUCKY GAS	18.0	COLUMBIA GAS TRAN
8130931	502049	1619501326	108	COLONY COAL & COKE #50 - 020490	EASTERN KENTUCKY GAS	18.0	COLUMBIA GAS TRAN
8130932	502050	1619517364	108	COLONY COAL & COKE #60 - 046130	EASTERN KENTUCKY GAS	21.0	COLUMBIA GAS TRAN
8130936	502054	1619500000	108	DAISY P VARNEY #1 - 015940	PIKE	1.0	COLUMBIA GAS TRAN
8130935	502053	1619500000	108	HAMILTON JAMES #1 - 008280	EASTERN KENTUCKY GAS	20.0	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP			RECEIVED: 05/14/81 JA: KY				
8130878	501991	1619532159	108	KENTLAND COMPANY 820595	KENTUCKY AREA C	24.0	COLUMBIA GAS TRAN
-CONTROLLED RESOURCES OIL & GAS CORP			RECEIVED: 05/14/81 JA: KY				
8130907	502022	1619500000	108	KY 27302 J TAYLOR EX 6	BRUSHY CREEK	11.0	COLUMBIA GAS TRAN
8130906	502021	1619500000	108	KY 29459 J TAYLOR EX75-6	BRUSHY CREEK	11.0	COLUMBIA GAS TRAN
8130909	502024	1619500000	108	KY24578 - METER C G T CORP 5916		5.2	COLUMBIA GAS TRAN
8130908	502023	1619500000	108	KY27301 J TAYLOR EX7	BRUSHY CREEK	11.0	COLUMBIA GAS TRAN
-HOLLY CREEK PRODUCTION CORP			RECEIVED: 05/14/81 JA: KY				
8130919	502037	1623700000	108	BLAKE ROSE #1	HOLLY CREEK FIELD	5.7	CAPITAL GAS & OIL
8130913	502028	1623700000	108	CLAY CAMPBELL #1	HOLLY CREEK FIELD	3.7	CAPITAL GAS & OIL
8130918	502036	1623700000	108	DOWIE BANKS #1	HOLLY CREEK FIELD	1.2	CAPITAL GAS & OIL
8130916	502034	1623700000	108	G T HURST #2	HOLLY CREEK FIELD	1.0	CAPITAL GAS & OIL
8130921	502039	1623700000	108	GLENN TYRA #1	HOLLY CREEK FIELD	8.6	CAPITAL GAS & OIL
8130920	502038	1623700000	108	HAZEL TYLER #1	HOLLY CREEK FIELD	13.7	CAPITAL GAS & OIL
8130915	502033	1623700000	108	LETCHER SMITH #1	HOLLY CREEK FIELD	1.9	CAPITAL GAS & OIL
8130912	502027	1623700000	108	M BREWER #1	HOLLY CREEK FIELD	1.8	CAPITAL GAS & OIL
8130922	502040	1623700000	108	MABLE WATKINS	HOLLY CREEK FIELD	4.5	CAPITAL GAS & OIL
8130911	502026	1602500000	108	ONEY BANKS	HOLLY CREEK FIELD	9.2	CAPITAL GAS & OIL
8130923	502041	1623700000	108	REED WILLIAMS #1	HOLLY CREEK FIELD	2.2	CAPITAL GAS & OIL
8130917	502035	1623700000	108	S H ELKINS #1	HOLLY CREEK FIELD	1.6	CAPITAL GAS & OIL
8130914	502032	1623700000	108	SAMP MALONEY #1	HOLLY CREEK FIELD	2.5	CAPITAL GAS & OIL

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-J W KINZER						RECEIVED: 05/14/81 JA: KY			
8130940	502060	1619500000		108		CHESAPEAKE MINERAL #19	MARROBONE	18.2	COLUMBIA GAS TRAN
-KENTUCKY WEST VA GAS COMPANY						RECEIVED: 05/14/81 JA: KY			
8130924	502042	1611900000		108		KYCOGA LAND COMPANY - NO 1672	KENTUCKY EAST	5.9	KENTUCKY WEST VIR
8130925	502043	1619500000		108		7252-JOHN W GOFF	KENTUCKY EAST	2.7	KENTUCKY WEST VIR
-THE WISER OIL COMPANY						RECEIVED: 05/14/81 JA: KY			
8130898	502005	1612100000		108		ABE CARNES #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130883	501998	1605100000		108		AL MATHIS #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130884	501999	1605100000		108		ALBERT NOLAN #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130897	502012	1612100000		108		ALLIE MILLS #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130903	502018	1612100000		108		AXIE SLUSHER #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130869	501981	1605100000		108		B STEWART #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130885	502000	1605100000		108		BETTY PARKS #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130901	502016	1612100000		108		ELIZABETH REYNOLDS #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130882	501997	1605100000		108		ELLA LEWIS #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130898	502013	1612100000		108		ESTIE MILLS #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130871	501984	1605100000		108		FORDSON #5064	FORDSON 7 WELLS	7.3	WISER OIL CO
8130876	501989	1605100000		108		FORDSON #8303	FORDSON 7 WELLS	7.3	WISER OIL CO
8130872	501985	1605100000		108		FORDSON #8304	FORDSON 7 WELLS	7.3	WISER OIL CO
8130875	501988	1605100000		108		FORDSON #8727	FORDSON 7 WELLS	7.3	WISER OIL CO
8130877	501990	1605100000		108		FORDSON #8728	FORDSON 7 WELLS	7.3	WISER OIL CO
8130873	501986	1605100000		108		FORDSON #8843	FORDSON 7 WELLS	7.3	WISER OIL CO
8130874	501987	1605100000		108		FORDSON #8845	FORDSON 7 WELLS	7.3	WISER OIL CO
8130879	501994	1605100000		108		FRANK HENSLEY #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130862	501974	1605100000		108		FRANK SPURLOCK #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130895	502010	1612100000		108		G G HAMMONS #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130894	502009	1612100000		108		H EVANS #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130870	501982	1605100000		108		H M HENSLEY #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130896	502011	1612100000		108		HAROLD JACKSON #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130905	502020	1612100000		108		J D & BEN WALKER #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130904	502019	1612100000		108		J D WALKER #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130886	502001	1605100000		108		JAMES ROBERTS #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130867	501979	1605100000		108		JANE THOMPSON #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130892	502007	1612100000		108		JOHN CARNES #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130865	501977	1605100000		108		JOHN REED #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130881	501996	1605100000		108		JONES & FELTNER #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130888	502003	1612100000		108		LEVI BAYS #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130887	502002	1605100000		108		LINK SETSER #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130863	501975	1605100000		108		LIZZIE SHARP #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130880	501995	1605100000		108		MILLARD HERD #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130891	502006	1612100000		108		MRS J M CARNES #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130868	50198	1605100000		108		PHIL WILSON #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130893	502008	1612100000		108		R H CORUM #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130902	502017	1612100000		108		SIMPSON SPURLOCK #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130864	501976	1605100000		108		SQUIRE REED #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
8130899	502014	1612100000		108		W H PURSIFUL #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130900	502015	1612100000		108		W H PURSIFUL #10	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130889	502004	1612100000		108		W M BINGHAM #1	KNOX COUNTY FIELD	3.4	WISER OIL CO
8130866	501978	1605100000		108		W W RAWLINGS #1 WELL	CLAY COUNTY FIELD	6.6	WISER OIL CO
-VICTOR HALE						RECEIVED: 05/14/81 JA: KY			
8130928	502046	1607100000		108		G W RATLIFF - KY W VA GAS CO #3	MIDDLE CREEK	7.3	KENTUCKY WEST VIR
8130926	502044	1607100000		108		T L REFFETT ETAL NO 1	MIDDLE CREEK	5.7	KENTUCKY WEST VIR
8130927	502045	1607100000		108		THORNSBURY HEIRS #3	MIDDLE CREEK	5.0	KENTUCKY WEST VIR

JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-W G BAILEY			RECEIVED: 05/14/81 JA: KY				
8130937	502057	1615900000	108	T J HARDIN #1	BIG SANDY FIELD	3.6	COLUMBIA GAS TRAN
8130938	502058	1615900000	108	T J HARDIN #2	BIG SANDY FIELD	3.6	COLUMBIA GAS TRAN
8130939	502059	1615900000	108	T J HARDIN #3	BIG SANDY FIELD	3.6	COLUMBIA GAS TRAN
-WALTER DUNCAN			RECEIVED: 05/14/81 JA: KY				
8130910	502025	1610700000	108	#1 CAL UNIT	NORTH MANITOU FIELD	17.9	TEXAS GAS TRANSMI
**********							
MICHIGAN DEPARTMENT OF NATURAL RESOURCES							
**********							
-AMOCO PRODUCTION CO			RECEIVED: 05/15/81 JA: MI				
8131016		2105533909	102-4	CUDNEY UNIT WELL NO 1-17	EAST BAY 17-26N-10W	42.0	CONSUMERS POWER C
8131015		2105533503	102-4	FOSTER UNIT WELL NO 1-12	EAST BAY 12	75.0	CONSUMERS POWER C
8131014		2103933898	103	STATE FREDERIC /B/ WELL NO 5B-8	FREDERIC 8-28N-4W	10.0	CONSUMERS POWER C
8131017		2100933895	103	STATE MANCELONA /I/ WELL NO 1A-36	BLUE LAKE 1-28N-5W	38.0	CONSUMERS POWER C
-PATRICK PETROLEUM CORP OF MICHIGAN			RECEIVED: 05/13/81 JA: MI				
8130988		2102534243	102-4	SMITH FARMS NO 1-30	CONVIS 30	3.0	
**********							
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION							
**********							
-KETCHURIAN & CO			RECEIVED: 05/13/81 JA: NY				
8130942	19	3101312623	108	SANDERS 1 #25	LAKESHORE	9.9	NATIONAL FUEL GAS
-PARAGON RESOURCES INC			RECEIVED: 05/13/81 JA: NY				
8130979	300	3101311894	108	UNIT NO 419 - ALBERT VANDETTE	LAKESHORE	6.4	NATIONAL FUEL GAS
8130980	301	3101311896	108	UNIT NO 421 - STEVE HASKELL	LAKESHORE	8.4	NATIONAL FUEL GAS
8130981	302	3101312204	108	UNIT NO 422 - ROBERT STORMS	LAKESHORE	2.4	NATIONAL FUEL GAS
8130982	303	3101311897	108	UNIT NO 423 - GORDON CORNELL	LAKESHORE	8.4	NATIONAL FUEL GAS
8130983	305	3101311900	108	UNIT NO 426 - ROSE VERHAGUE	LAKESHORE	4.8	NATIONAL FUEL GAS
8130984	306	3101311901	108	UNIT NO 427 - CONSTANCE MONETTE	LAKESHORE	8.6	NATIONAL FUEL GAS
8130985	307	3101311902	108	UNIT NO 428 - DAVID SNYDER	LAKESHORE	4.6	NATIONAL FUEL GAS
8130986	308	3101312458	108	UNIT NO 432 - WILLIAM POTKOVICK	LAKESHORE	9.4	NATIONAL FUEL GAS
8130987	310	3101311910	108	UNIT NO 436 - ERNEST BERNARD	LAKESHORE	3.3	NATIONAL FUEL GAS
8130961	323	3101312423	108	UNIT NO 454-RUTH STCINTSCHEWSKY	LAKESHORE	7.4	NATIONAL FUEL GAS
8130962	324	3101312275	108	UNIT NO 455-PAUL LUCZKOWSKI	LAKESHORE	1.2	NATIONAL FUEL GAS
8130963	325	3101312353	108	UNIT NO 456-RICHARD POTTER	LAKESHORE	7.0	NATIONAL FUEL GAS
8130964	326	3101312276	108	UNIT NO 458-STANLEY CLARK	LAKESHORE	7.9	NATIONAL FUEL GAS
8130965	327	3101312294	108	UNIT NO 459-ALBERT FANCHER	LAKESHORE	7.2	NATIONAL FUEL GAS
8130966	328	3101312277	108	UNIT NO 461 - LESTER PALMER	LAKESHORE	5.5	NATIONAL FUEL GAS
8130967	329	3101312278	108	UNIT NO 463 - HOWARD TOWN	LAKESHORE	7.2	NATIONAL FUEL GAS
8130968	331	3101312445	108	UNIT NO 465 - ANTHONY BORDONARO	LAKESHORE	5.7	NATIONAL FUEL GAS
8130969	332	3101312233	108	UNIT NO 466 - HOWARD TOWN	LAKESHORE	15.1	NATIONAL FUEL GAS
8130970	334	3101312234	108	UNIT NO 469 - ALBERT H GAUS	LAKESHORE	4.8	NATIONAL FUEL GAS
8130971	337	3101312235	108	UNIT NO 472 - HELEN MAZUR	LAKESHORE	8.2	NATIONAL FUEL GAS
8130972	338	3101312236	108	UNIT NO 473 - ALBERT H GAUS	LAKESHORE	16.5	NATIONAL FUEL GAS
8130973	339	3101312385	108	UNIT NO 475 - DARYL MCAVOY	LAKESHORE	4.2	NATIONAL FUEL GAS
8130974	340	3101312237	108	UNIT NO 476 - PETER H HARE	LAKESHORE	6.7	NATIONAL FUEL GAS
8130975	350	3101312386	108	UNIT NO 477 - EARL CARDOT	LAKESHORE	1.2	NATIONAL FUEL GAS
8130976	342	3101312387	108	UNIT NO 479 - BARNEY GLOWNIAK	LAKESHORE	2.3	NATIONAL FUEL GAS
8130977	343	3101312388	108	UNIT NO 480 - EARL C	LAKESHORE	7.2	NATIONAL FUEL GAS
8130978	346	3101312301	108	UNIT NO 485 - ANTHONY LEONE	LAKESHORE	1.5	NATIONAL FUEL GAS
-SCG GAS QUEST INC			RECEIVED: 05/13/81 JA: NY				
8130945	1071	3102913304	108	BOWER #1	EDEN-EVANS	3.4	TENNESSEE GAS PIP
8130947	1073	3102913226	108	DIOCESE OF BUFFALO #1	EDEN-EVANS	8.2	TENNESSEE GAS PIP
8130946	1072	3102913227	108	DIOCESE OF BUFFALO #2	EDEN-EVANS	13.3	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	C SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8130948	1074	3102913228	108	GARCIA #1	EDEN-EVANS	5.1	TENNESSEE GAS PIP
8130944	1069	3102913306	108	HENRICH #1	EDEN-EVANS	11.3	TENNESSEE GAS PIP
8130951	1076	3102912897	108	HOWLES #1	EDEN-EVANS	8.4	TENNESSEE GAS PIP
8130950	1075	3102913230	108	HOWLES #2	EDEN-EVANS	15.9	TENNESSEE GAS PIP
8130943	1068	3102913305	108	MARTENS #1	EDEN-EVANS	7.0	TENNESSEE GAS PIP
8130958	1084	3102912757	108	MILIUS-THOMAS #1	EDEN-EVANS	6.4	TENNESSEE GAS PIP
8130957	1083	3102912759	108	MILIUS-THOMAS #2	EDEN-EVANS	8.9	TENNESSEE GAS PIP
8130955	1080	3102912898	108	MILLER #1	EDEN-EVANS	3.5	TENNESSEE GAS PIP
8130954	1079	3102913229	108	MILLER #2	EDEN-EVANS	2.1	TENNESSEE GAS PIP
8130956	1081	3102912875	108	MORTIMER A SULLIVAN #1	EDEN-EVANS	1.0	TENNESSEE GAS PIP
8130949	1070	3102913303	108	N C FARMING #1	EDEN-EVANS	5.0	TENNESSEE GAS PIP
8130941	1082	3102912853	108	NORMAN E BROMLEY ET UX #1	EDEN-EVANS	1.9	TENNESSEE GAS PIP
8130960	1086	3102912758	108	WHEELOCK-TURNBULL #1	EDEN-EVANS	5.4	TENNESSEE GAS PIP
8130959	1085	3102912760	108	WHEELOCK-TURNBULL #2	EDEN-EVANS	16.3	TENNESSEE GAS PIP
8130953	1078	3102912896	108	YAGER #1	EDEN-EVANS	3.5	TENNESSEE GAS PIP
8130952	1077	3102913231	108	YAGER #2	EDEN-EVANS	9.4	TENNESSEE GAS PIP

OKLAHOMA CORPORATION COMMISSION

-APACHE CORPORATION — RECEIVED: 05/13/81 JA: OK

8130995	08817	3500920278	103	SMITH #1-31		0.0	MICHIGAN-WISCONSI

-ASTRO ENERGY CORP — RECEIVED: 05/13/81 JA: OK

8131001	8682	3508300000	103	FITZPATRICK #1	FITZPATRICK #1	15.0	EASON OIL

-AUBREY C BLACK — RECEIVED: 05/13/81 JA: OK

8131002	6950	3507720197	103	AUBREY C BLACK FARMERS UNION CO-OP*	KINTA	500.0	ARKANSAS LOUISIAN

-BERRY PETROLEUM CORP — RECEIVED: 05/13/81 JA: OK

*8130989	08832	3500320758	103	BURRIGHT #14-1	SOONER TREND	150.0	PANHANDLE EASTERN
8130990	08831	3508321497	103	COOPER #31-1	SOONER TREND	150.0	PANHANDLE EASTERN

-BUTTES RESOURCES CO — RECEIVED: 05/13/81 JA: OK

8131009	8143	3500720913	108	HAACK #1 - 11	HAACK #1 - 11	17.0	PANHANDLE EASTERN

-CAYMAN EXPLORATION CORP — RECEIVED: 05/13/81 JA: OK

8130997	08766	3507322473	103	SHUTLER #1	SOONER TREND	18.3	CONTINENTAL OIL C
8131005	08767	3507322491	103	WELLS #1	SOONER TREND	18.3	CITIES SERVICE GA

-CITIES SERVICE COMPANY — RECEIVED: 05/13/81 JA: OK

8130991	08829	3512920473	102-2	A-CROSS RANCH - A #1	WEST CARPENTER	547.0	
8130992	08828	3513921356	102-3	SHUBERT A NO 1	SOUTH EVA	454.0	

-COTTON PETROLEUM CORPORATION — RECEIVED: 05/13/81 JA: OK

8130993	08824	3501520926	102-2	LINDLEY NO 1	S W HINTON	270.0	DELHI GAS PIPE LI

-DALCO PETROLEUM INC — RECEIVED: 05/13/81 JA: OK

8130998	08745	3507322443	103	KOLLER #1	SOONER TREND	91.3	PHILLIPS PETROLEU

-ENNEX PRODUCTION COMPANY — RECEIVED: 05/13/81 JA: OK

8130994	08818	3508121132	103	GREEN NO 1	S W PRAIRIE GEM	117.0	

-GULF OIL CORPORATION — RECEIVED: 05/13/81 JA: OK

8131010	07594	3507350108	108	STALDER #1	LINCOLN SE	14.0	CONTINENTAL OIL C

-JIMMY W GRAY — RECEIVED: 05/13/81 JA: OK

8131006	8673	3504921387	103	DES #1	WHITEBEAD WEST	0.0	WARREN PETROLEUM

-JOE C RICHARDSON JR — RECEIVED: 05/13/81 JA: OK

8130996	08809	3500721863	103	KAMOS NO 1-2	MOCANE-LAVERNE	500.0	COLORADO INTERSTA

-P-T II LTD — RECEIVED: 05/13/81 JA: OK

8131008	8404	3507322132	103	JOHN WEBER #1	SOONER TREND	96.0	PHILLIPS PETROLEU

-PHILLIPS PETROLEUM COMPANY — RECEIVED: 05/13/81 JA: OK

8131007	08644	3501520910	103	EAST BINGER UNIT 14-2	EAST BINGER UNIT	0.0	ONG EXPLORATION

-PIONEER PRODUCTION CORPORATION — RECEIVED: 05/13/81 JA: OK

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JU NO	JA CAT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8131003	08801	3502500000	102-2	THELMA BROWN #1-21	N E GRIGGS	186.0	
-REDMEN OIL CO			RECEIVED: 05/13/81 JA: OK				
8131004	02129	3510936289	108	HILDRETH #1	MINNIE PAGE ADDITION	16.6	PHILLIPS PETROLEU
-TENNECO OIL COMPANY			RECEIVED: 05/13/81 JA: OK				
8130999	08721	3503920009	102-4	ASHBY 1-36	WEATHERFORD NORTH	126.0	
-W M & A P FULLER			RECEIVED: 05/13/81 JA: OK				
8131000	08718	3501721683	103	ESKEW NO 1	NORTHEAST YUKON	0.0	PHILLIPS PETROLEU

OTHER PURCHASERS

8130989 UNION TEXAS PETROLEUM CORP

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 2, 1981.

Categories within each NGPA section are indicated by the following codes:

Section:

102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-18011 Filed 6-16-81; 8:45 am]
BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
ALABAMA OIL & GAS BOARD							
-GEORGE G ANDERMAN			RECEIVED: 05/15/81 JA: AL				
8131054	3-20-814PD-A	0105720221	103	AIRHART-WATKINS 6-16	WEST FAYETTE	130.0	CORONADO TRANSMIS
-PRUET PRODUCTION CO			RECEIVED: 05/15/81 JA: AL				
8131053	3-20-8116PD	0107520294	102-4	ROGERS 3-16 NO 1	NORTH BLOWHORN CREEK OIL	41.0	SOUTHERN NATURAL
8131052	3208115PDA	0107520320	102-4	ROGERS 3-8 NO 1	NORTH BLOWHORN CREEK OIL	35.0	SOUTHERN NATURAL
-SOUTHLAND ROYALTY CO			RECEIVED: 05/15/81 JA: AL				
8131055	5-1-8118 PD	0107520318	102-2	E L BRADFORD 19-15 #1	STAR	500.0	TENNESSEE GAS PIP
-WARRIOR DRILLING & ENG CO INC			RECEIVED: 05/15/81 JA: AL				
8131056	51-8120PD-A	0107520218	102-4	GORDON 11-5	NORTH BLOWHORN CREEK OIL	25.0	SOUTHERN NATURAL
CALIFORNIA DEPARTMENT OF CONSERVATION							
-TENNECO OIL COMPANY			RECEIVED: 05/12/81 JA: CA				
8131036	81-4-0028	0402961402	103	HOOKER 24X-34	YOWLUMNE	20.0	ARCO OIL & GAS CO
8131044	81-4-0036	0402958123	103	YOWLUMNE UNIT A 54X-3	YOWLUMNE	177.0	ARCO OIL & GAS CO
8131042	81-4-0034	0402956194	103	YOWLUMNE 14X-3	YOWLUMNE	69.0	ARCO OIL & GAS CO
8131043	81-4-0035	0402958026	103	YOWLUMNE 21X-3	YOWLUMNE	265.0	ARCO OIL & GAS CO
8131037	81-4-0029	0402956817	103	YOWLUMNE 25X-4	YOWLUMNE	636.0	ARCO OIL & GAS CO
8131041	81-4-0033	0402957853	103	YOWLUMNE 32-3	YOWLUMNE	500.0	ARCO OIL & GAS CO
8131039	81-4-0031	0402957684	103	YOWLUMNE 44X-3	YOWLUMNE	255.0	ARCO OIL & GAS CO
8131038	81-4-0030	0402955768	103	YOWLUMNE 45-4	YOWLUMNE	447.0	ARCO OIL & GAS CO
8131040	81-4-0032	0402956958	103	YOWLUMNE 52X-4	YOWLUMNE	82.0	ARCO OIL & GAS CO
-TEXACO INC			RECEIVED: 05/12/81 JA: CA				
8131045	81-4-0037	0402961550	102-4	BUENA VISTA LAKE #1	PALOMA FIELD	360.0	
LOUISIANA OFFICE OF CONSERVATION							
-AMERICAN QUASAR PETROLEUM CO			RECEIVED: 05/15/81 JA: LA				
8131180	81-1016	1702321558	102-2	DIXIE RICE #3	S LAKE ARTHUR SEC 2 T12S	0.0	COLUMBIA GAS DEVE
-B & J CO			RECEIVED: 05/15/81 JA: LA				
8131174	81-987	1711122843	103	J C ALLEN #1 171567	MONROE GAS	32.0	MID LOUISIANA GAS
-BAYLES & WHITE			RECEIVED: 05/15/81 JA: LA				
8131168	81-983	1707321685	103	EDWARDS NO 1	MONROE GAS ROCK	15.0	UNITED GAS PIPELI
-CEKA GAS CORP			RECEIVED: 05/15/81 JA: LA				
8131154	81-978	1711122784	108	HSD NO 10	MONROE GAS FIELD	0.1	INTERNATIONAL MIN
8131155	81-977	1711122785	108	HSD NO 11	MONROE GAS FIELD	0.1	INTERNATIONAL MIN
8131153	81-979	1711122764	108	HSD NO 2	MONROE GAS FIELD	0.1	INTERNATIONAL MIN
8131152	81-980	1711122765	108	HSD NO 3	MONROE GAS FIELD	0.1	INTERNATIONAL MIN
8131151	81-981	1711122774	108	HSD NO 7	MONROE GAS FIELD	0.1	INTERNATIONAL MIN
8131156	81-976	1711122783	108	HSD NO 9	MONROE GAS FIELD	0.1	INTERNATIONAL MIN
-CHEM-ROCK INC			RECEIVED: 05/15/81 JA: LA				

JD NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PRCD	PURCHASER
8131069	81-966	1706721552		103		DUNN ET AL #1	MONROE	29.0	IMC PIPELINE CO I
8131068	81-967	1706721620		103		DUNN ET AL #2	MONROE	29.0	IMC PIPELINE CO I
-CRYSTAL OIL COMPANY				RECEIVED: 05/15/81 JA: LA					
8131175	81-906	1701521507		102-4		HAY RA SU O INTERNATIONAL PAPER CO	ARKANA	1138.8	ARKANSAS LOUISIAN
-DAC OIL CORP				RECEIVED: 05/15/81 JA: LA					
8131102	81-960	1703920216		102-4		A J MANUEL NO 1	EAST POINT BLUE	500.0	LOUISIANA INTERST
-EASON OIL COMPANY				RECEIVED: 05/15/81 JA: LA					
8131065	81-970	1711102163		108		A W SMITH NO 1	MONROE	8.0	IMC PIPELINE CO I
8131064	81-971	1711102162		108		B E SMITH ET AL NO 1	MONROE	12.0	IMC PIPELINE CO I
8131066	81-969	1707300045		108		GUTHRIE NO 1	MONROE	17.0	PETRO-LEWIS CORP
8131067	81-968	1711101177		108		J W LANKFORD NO 1	MONROE	20.0	TEXAS GAS TRANSMI
-ERGON INC				RECEIVED: 05/15/81 JA: LA					
8131111	81-973	1711121975		107-TF		EXXON C NO 4	MONROE (6824)	9.3	TEXAS GAS TRANSMI
8131157	81-975	1711121817		103		VUH JIMMY BRANTLEY NO 1	MONROE (6824)	9.6	TEXAS GAS TRANSMI
8131110	81-974	1711121818		103		VUI FARRIS RATZLAFF NO 1	MONROE (6824)	9.0	TEXAS GAS TRANSMI
8131063	81-972	1711121994		107-TF		VUK JOE E BROWN JR NO 1	MONROE (6824)	9.3	TEXAS GAS TRANSMI
-EXCHANGE OIL & GAS CORPORATION				RECEIVED: 05/15/81 JA: LA					
8131126	81-947	1710922340		107-DP		PELLEGRIN-PRICE WELL NO 2	BAYOU SAUVEUR	365.0	LOUISIANA INTRAST
8131128	81-945	1770520083		107-DP		S/L 3842 WELL NO 4	VERMILION BLOCK 16	1460.0	TRANSCONTINENTAL
-EXXON CORPORATION				RECEIVED: 05/15/81 JA: LA					
8131074	81-915	1707522769		102-4		LW O RA SU S L 212 NO 89	LAKE WASHINGTON	5.0	TENNESSEE GAS PIP
-FRANKS PETROLEUM INC ETAL				RECEIVED: 05/15/81 JA: LA					
8131073	81-916	1701320443		103		HOSS RA SUI ESSIE WHITE NO 1	CASTOR	75.0	TEXAS EASTERN TRA
8131176	81-905	1702720579		102-4		HOSS 5070 RA SUC R R THURMAN NO 1	LISBON	146.0	ARKANSAS LOUISIAN
-GATOR HAWK GAS CO				RECEIVED: 05/15/81 JA: LA					
8131097	81-924	1707321709		103		COLEMAN #1	MONROE	12.0	IMC PIPELINE CO I
8131082	81-926	1707321707		103		HEMPHILL #4	MONROE	7.0	IMC PIPELINE CO I
8131083	81-925	1707321705		103		HEMPHILL #5	MONROE	12.0	IMC PIPELINE CO I
-GULF OIL CORPORATION				RECEIVED: 05/15/81 JA: LA					
8131140	81-939	1709700420		108		KZS SU KU WELL NO 42	KROTZ SPRINGS	2.0	MICHIGAN WISCONSI
-H L MCKEE & J P MCKEE				RECEIVED: 05/15/81 JA: LA					
8131179	81-902	1711122583		103		PEEK #3	MONROE	8.0	MID LOUISIANA GAS
-HERBST RESOURCES INC				RECEIVED: 05/15/81 JA: LA					
8131095	81-899	1707321480		103		CLARK 80 - 1	MONROE GAS ROCK	16.0	MID LOUISIANA GAS
8131094	81-900	1707321481		103		CLARK 80 - 2	MONROE GAS ROCK	16.0	MID LOUISIANA GAS
8131093	81-901	1707321482		103		CLARK 80 - 3	MONROE GAS ROCK	16.0	MID LOUISIANA GAS
-HOOTKINS-SMITH LA LTD				RECEIVED: 05/15/81 JA: LA					
8131101	81-920	1711122870		107-TF		VIRGINIA YELTON #1	MONROE	7.0	TEXAS GAS TRANSMI
-IMC EXPLORATION COMPANY				RECEIVED: 05/15/81 JA: LA					
8131137	81-942	1707321569		103		ABE ARENT ET AL #5	MONROE	18.0	IMC PIPELINE CO I
8131119	81-996	1711122841		108		CITIES SERVICE #F-331	MONROE	10.0	IMC PIPELINE CO I
8131118	81-997	1711122842		108		CITIES SERVICE #F-332	MONROE	10.0	IMC PIPELINE CO I
8131098	81-923	1707321706		103		COLE T #35	MONROE	22.0	IMC PIPELINE CO I
8131121	81-994	1711122042		108		GRAYLING #N-255	MONROE	8.0	IMC PIPELINE CO I
8131120	81-995	1711122835		108		GRAYLING #N-264	MONROE	8.0	IMC PIPELINE CO I
8131114	81-1001	1706721222		108		KENO #1	MONROE	3.0	IMC PIPELINE CO I
8131115	81-1000	1707321232		108		NACHTRIEB A #6	MONROE	3.0	IMC PIPELINE CO I
8131117	81-998	1707321248		108		NACHTRIEB A #9	MONROE	2.0	IMC PIPELINE CO I
8131123	81-992	1707321501		108		PACE LAKE #4	MONROE	8.0	IMC PIPELINE CO I
8131122	81-993	1707321502		108		PACE LAKE #5	MONROE	10.0	IMC PIPELINE CO I
8131138	81-941	1707321712		103		PACE LAKE #6	MONROE	18.0	IMC PIPELINE CO I
8131113	81-1002	1706721408		108		SANDIDGE A NO 13	MONROE	17.0	UNITED GAS PIPELI
8131116	81-999	1707321290		108		UNION PRODUCING CO T #11	MONROE	9.0	IMC PIPELINE CO I

JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8131062	81-1003	1707321484	108	UNION PRODUCING CO T #4	MONROE	9.0	IMC PIPELIN CO IN
-K D LANKFORD JR & L&N DRLG CO			RECEIVED: 05/15/81 JA: LA				
8131079	81-929	1711121466	108	MOORE NO 1	MONROE	18.0	UNITED GAS PIPE L
8131088	81-930	1711121465	108	MOORE NO 1	MONROE	18.0	UNITED GAS PIPE L
8131080	81-928	1711121877	108	MOORE NO 3	MONROE	18.0	UNITED GAS PIPE L
8131081	81-927	1711121889	108	MOORE NO 4	MONROE	18.0	UNITED GAS PIPE L
-LANKFORD & NANCE			RECEIVED: 05/15/81 JA: LA				
8131085	81-933	1711122314	108	ALLEN NO 1	MONROE	12.0	TEXAS GAS TRANSMI
8131084	81-932	1711122349	108	ALLEN NO 2	MONROE	12.0	TEXAS GAS TRANSMI
8131087	81-931	1711122443	108	BIRD NO 1	MONROE	8.0	TEXAS GAS TRANSMI
8131086	81-934	1711122580	108	K D LANKFORD NO 4	MONROE	10.0	TEXAS GAS TRANSMI
-MARSHALL EXPLORATION INC			RECEIVED: 05/15/81 JA: LA				
8131090	81-896	1703121087	108	FBG RA SU 10 RAMSEY #8	LOGANSPORT	18.0	TENNESSEE GAS PIP
8131089	81-897	1703120971	108	FBG RA SU 109 ROBERTS #1	LOGANSPORT	19.0	TENNESSEE GAS PIP
8131091	81-895	1703120998	108	FBG RA SU 159 WHITEHEAD #2	LOGANSPORT	19.0	SOUTHERN NATURAL
8131096	81-898	1703120516	108	FBG RA SU 70 GAMBLE #1	LOGANSPORT	18.0	TENNESSEE GAS PIP
8131092	81-894	1703121160	108	FBG RA SU 92 FREDERICK #1	LOGANSPORT	17.0	TENNESSEE GAS PIP
8131178	81-903	1703120964	108	FBG RA SU 98 SMITH #1	LOGANSPORT	9.0	TENNESSEE GAS PIP
8131150	81-982	1703121043	108	L GR RA SUL PACE #4	LOGANSPORT	19.0	TENNESSEE GAS PIP
8131133	81-951	1703121094	103	U HOSS RA SU A PACE #5	BELLE BOWER	350.0	TENNESSEE GAS PIP
-MCALESTER FUEL COMPANY			RECEIVED: 05/15/81 JA: LA				
8131130	81-938	1711320967	103	ALL RA SUC HUMBLE NO 1	SOUTHWEST GUEYDAN	547.0	CONOCO INC
-MCCORMICK OPERATING CO			RECEIVED: 05/15/81 JA: LA				
8131112	81-1021	1705120522	102-4	L L & E NO 1	SOUTH BAYOU DE FLEUR	150.0	SOUTHERN NATURAL
-MID LOUISIANA GAS COMPANY			RECEIVED: 05/15/81 JA: LA				
8131129	81-944	1711122652	103	MLGC FEE GAS NO 941	MONROE FIELD	29.2	
-MIDWAY PRODUCTION CO VII			RECEIVED: 05/15/81 JA: LA				
8131100	81-921	1707321381	108	LAKE PARK NO 3	MONROE	9.6	PETRO-LEWIS CORP
8131099	81-922	1707321382	108	LAKE PARK NO 4	MONROE	9.6	PETRO-LEWIS CORP
-NELSON OIL & GAS INC			RECEIVED: 05/15/81 JA: LA				
8131177	81-904	1711920245	103	HOSS A RA SU CC BUTLER NO 1-D	ADA	0.0	ARKANSAS LOUISIAN
-NICKLOS OIL & GAS			RECEIVED: 05/15/81 JA: LA				
8131109	81-1022	1705721560	102-4	MARCILLEN RICHARD #1	ROUSSEAU	730.0	TRANSCONTINENTAL
-PALMER PETROLEUM INC			RECEIVED: 05/15/81 JA: LA				
8131160	81-991	1702720822	102-4	CVRASUF WHITE #1	MCKENZIE	700.0	LOUISIANA GAS INT
-PLACID OIL COMPANY			RECEIVED: 05/15/81 JA: LA				
8131132	81-952	1705921726	102-4	IPB 6 NO 1	WILDCAT	100.0	
-PRIMOS PRODUCTION CO			RECEIVED: 05/15/81 JA: LA				
8131173	81-908	1707321374	108	PETRO LEWIS HATCHER EVANS #5	MONROE GAS	3.0	PETRO-LEWIS FUNDS
8131165	81-986	1711122779	103	PETRO-LEWIS ALVIN HARRELL #1	MONROE	12.3	PETRO-LEWIS FUNDS
8131164	81-987	1711122850	103	PETRO-LEWIS FROST LUMBER #10	MONROE	14.4	PETRO-LEWIS FUNDS
8131163	81-988	1711122851	103	PETRO-LEWIS FROST LUMBER #11	MONROE	12.3	PETRO-LEWIS FUNDS
8131166	81-985	1711122780	103	PETRO-LEWIS FROST LUMBER #14	MONROE	15.4	PETRO-LEWIS FUNDS
8131136	81-909	1707321377	108	PETRO-LEWIS HATCHER EVANS #7	MONROE GAS	3.0	PETRO-LEWIS FUNDS
8131167	81-984	1711122885	103	PETRO-LEWIS UNION PRODUCING #2	MONROE	14.4	PETRO-LEWIS FUNDS
-R W ELLINGTON JR			RECEIVED: 05/15/81 JA: LA				
8131106	81-956	1711101825	108	TUCKER ET AL 1-D	MONROE GAS	0.8	UNITED GAS PIPE L
-RELIANCE TR-JV			RECEIVED: 05/15/81 JA: LA				
8131147	81-1011	1711122157	107-TF	BEN POST # 1	MONROE	5.0	TEXAS GAS TRANSMI
8131135	81-910	1711122612	107-TF	E JOHNSON #1	MONROE	9.0	TEXAS GAS TRANSMI
8131146	81-1012	1711122182	107-TF	G WARD ESTATE # 1	MONROE	16.0	TEXAS GAS TRANSMI
8131148	81-1010	1711122158	107-TF	H D GREEN # 1	MONROE	4.0	TEXAS GAS TRANSMI
8131149	81-1009	1711122224	107-TF	H D GREEN #3	MONROE	15.0	TEXAS GAS TRANSMI

JD NO	JA NO	API NO	C	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8131159	81-943	1711123015		103		H D GREEN #4	MONROE	13.0	TEXAS GAS TRANSMI
8131169	81-1008	1711122166		107-TF		HOPKINS ESTATE #1	MONROE	15.0	TEXAS GAS TRANSMI
8131170	81-1007	1711122532		107-DP		HOPKINS ESTATE #4	MONROE	11.0	TEXAS GAS TRANSMI
8131171	81-1006	1711122613		107-TF		HOPKINS ESTATE #6	MONROE	11.0	TEXAS GAS TRANSMI
8131181	81-1015	1711122669		107-TF		J D TAYLOR #2	MONROE	16.0	TEXAS GAS TRANSMI
8131182	81-1014	1711122611		107-TF		J D TAYLOR #3	MONROE	16.0	TEXAS GAS TRANSMI
8131183	81-1013	1711122227		107-TF		J D TAYLOR #5	MONROE	16.0	TEXAS GAS TRANSMI
8131172	81-1005	1711122161		107-TF		OLINKRAFT #6	MONROE	11.0	TEXAS GAS TRANSMI
8131141	81-1004	1711122168		107-TF		OLINKRAFT #8	MONROE	16.0	TEXAS GAS TRANSMI
-RELIANCE TRUSTS				RECEIVED: 05/15/81 JA: LA					
8131071	81-911	1711122057		107-TF		OLINKRAFT #34	MONROE	11.0	TEXAS GAS TRANSMI
8131070	81-912	1711122846		107-TF		SHACKLEFORD # 2	MONROE	11.0	TEXAS GAS TRANSMI
-RIO BRAVO OIL CO INC				RECEIVED: 05/15/81 JA: LA					
8131127	81-946	1710922237		102-A		L L & E #1	SOUTH SUNRISE	900.0	LOUISIANA INTRAST
-ROBERSON WELL SERVICE				RECEIVED: 05/15/81 JA: LA					
8131158	81-1017	1707321667		103		PENNZOIL OSTERLAND NO 5	MONROE	14.1	UNITED GAS PIPELI
-SEVARG COMPANY INC				RECEIVED: 05/15/81 JA: LA					
8131103	81-959	1709720579		103		GUILLORY SUB YOUNG BROS NO 1	SAVOY FIELD	25.0	TEXAS EASTERN TRA
-SHADRACK PRODUCTION CO				RECEIVED: 05/15/81 JA: LA					
8131058	81-964	1711122751		108		R S ALLEN NO 1	MONROE	9.0	WEST MONROE GAS G
8131057	81-965	1711122859		108		W T MILLER NO 1	MONROE	8.0	WEST MONROE GAS G
-SUN OIL COMPANY (DELAWARE)				RECEIVED: 05/15/81 JA: LA					
8131134	81-950	1710101697		108		BI N VUA NO 1-47	BELLE ISLE	16.0	UNITED GAS PIPELI
8131125	81-948	1710101684		108		BI N VUA NO 1-53	BELLE ISLE	22.0	UNITED GAS PIPELI
8131124	81-949	1710101567		108		BI N VUA NO 1-63	BELLE ISLE	7.4	UNITED GAS PIPELI
8131076	81-913	1700120912		103		RM RA SUC W L TRIPBLE NO 5	EGAN	0.0	
8131075	81-914	1700120925		102-A		HAYES A NO 5	EGAN	1.3	
-TEXACO INC				RECEIVED: 03/15/81 JA: LA					
8131105	81-957	1709720520		103		BOTANY BAY LBR CO MIN FEE TR-2 #125	PORT BARRE	15.0	CONSOLIDATED ALUM
-TEXACO INC				RECEIVED: 05/15/81 JA: LA					
8131107	81-955	1709720276		103		BOTANY BAY LBR CO MIN FEE TR-2 124	PORT BARRE	10.0	CONSOLIDATED ALUM
8131144	81-1019	1709720467		103		BOTANY BAY LBR CO MIN FEE TR-2 151	PORT BARRE	20.0	CONSOLIDATED ALUM
8131145	81-1018	1709720468		103		BOTANY BAY LBR CO MIN FEE TR-2#152	PORT BARRE	5.0	CONSOLIDATED ALUM
8131131	81-953	1709920813		102-A		PB 10300 RF SU ST MARTIN LD 68	PLUMB BOB	88.0	UNITED GAS PIPE L
8131108	81-954	1709920789		102-A		PB 2950 RA SU SMPSB 20	PLUMB BOB	7.0	UNITED GAS PIPE L
8131072	81-917	1710922306		103		VUL DGL U-12 62	DOG LAKE	5.0	TEXAS GAS TRANSMI
-TEXAS OIL & GAS CORP				RECEIVED: 05/15/81 JA: LA					
8131161	81-990	1703121243		102-A		HOSS RA SUB ATWOOD #1	SPIDER	496.0	DELHI GAS PIPELIN
8131162	81-989	1704920161		103		HOSS RA SUK ATKINS E #1	CLAY	1300.0	DELHI GAS PIPELIN
-THE STONE OIL CORPORATION				RECEIVED: 05/15/81 JA: LA					
8131104	81-958	1711321103		107-DP		EXXON FEE NO 13	LAC BLANC	1789.0	TENNESSEE GAS PIP
-TRANSCO EXPLORATION COMPANY				RECEIVED: 05/15/81 JA: LA					
8131139	81-940	1703121244		102-A		HOSS RA SUJ BAKER NO 1	SPIDER	0.0	TRANSCONTINENTAL
-TRIGON EXPLORATION INC				RECEIVED: 05/15/81 JA: LA					
8131077	81-918	1710922171		102-A		A M DUPONT NO 1	LAPEYROUSE FIELD	39.0	UNITED GAS PIPE L
8131078	81-919	1710922265		102-A		E A KLINGMAN NO 1	LAPEYROUSE	37.0	UNITED GAS PIPE L
-UNION TEXAS PETROLEUM				RECEIVED: 05/15/81 JA: LA					
8131143	81-1020	1705320653		103		MIOGYP RB SUA BROUSSARD NO 5	LAKE ARTHUR	255.5	TEXAS GAS TRANSMI
-VISTA INVESTMENTS				RECEIVED: 05/15/81 JA: LA					
8131060	81-962	1711120405		108		CLAUDIS MCKINNIE #1	MONROE	3.0	MID-LOUISIANA GAS
8131059	81-963	1711102503		108		EVA B SMITH #1	MONROE	2.0	GLENDA PETROLEUM
8131061	81-961	1711100000		108		H JENNY #1	MONROE GAS	2.0	MID-LOUISIANA GAS
-WEAVER EXPLORATION CO				RECEIVED: 05/15/81 JA: LA					

JD NO	JA DAT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8131142	81-1023	1709920874	103	L PLAN (P) 4 SUE DOW CHEMICAL #1	BAYOU LONG	913.0	DOW CHEMICAL CO
NEBRASKA OIL & GAS CONSERVATION COMMISSION							
-BEREN CORPORATION			RECEIVED: 05/15/81 JA: AB				
8131048		2610521788	102-2	MILLARD NO 1	NOTT	33.0	KANSAS-NEBRASKA N
8131049		2610521951	102-2	MILLARD NO 2	NOTT	55.0	KANSAS-NEBRASKA N
-BWAB INC			RECEIVED: 05/15/81 JA: AB				
8131051		2603321975	103	SCHOU #1A	WILDCAT	18.0	MARATHON OIL CO
8131050		2603322038	103	SCHOU #2A	WILDCAT	13.0	MARATHON OIL CO
UTAH DIVISION OF OIL,GAS, & MINING							
-BURTON W HANCOCK			RECEIVED: 05/19/81 JA: UT				
8131047	K-134-0	4301930310	103	HANCOCK STATE NO 7	WEST BAR-X	70.0	NORTHWEST PIPELIN
-CIG EXPLORATION INC			RECEIVED: 05/19/81 JA: UT				
8131046	K-129-3	4304730833	103	CIGE 36D-32-9-22	NATURAL BUTTES	574.0	COLORADO INTERSTA
WYOMING OIL & GAS CONSERVATION COMMISSION							
-DAVIS OIL COMPANY			RECEIVED: 05/12/81 JA: WY				
8131022	W 6-1	4901920562	102-2	INDIAN CHIEF FEDERAL #29	INDIAN CREEK UNIT II	66.2	PHILLIPS PETROLEU
**** U.S. GEOLOGICAL SURVEY - DENVER,CO**							
-AMERICAN PETROLEUM ENERGY CO INC			RECEIVED: 05/12/81 JA: CO 1				
8131034	CD 0091-81	0506706312	103	ARGENTA-UTE #14	IGNACIO-BLANCO	6.0	NORTHWEST PIPELIN
-AMERICAN RESOURCES MANAGEMENT CORPO			RECEIVED: 05/14/81 JA: CO 1				
8131019	CD 0015-81-E	0504506010	108-ER	S C #11-1		0.0	NORTHWEST P L COR
-BEARTOOTH OIL & GAS CO			RECEIVED: 05/12/81 JA: CO 1				
8131024	CD0107-81	0504506275	102-2	FEDERAL NO 18-3	EVACUATION CREEK UNIT	185.0	NORTHWEST PIPELIN
-CHANDLER & ASSOCIATES INC			RECEIVED: 05/12/81 JA: CO 1				
8131028	CD 0051-81	0510308447	107-TF	FORK UNIT 11-31-1-1	DRAGON TRAIL	110.0	NORTHWEST PIPELIN
8131027	CD 0050-81	0510308449	107-TF	FORK UNIT 12-29-1-1	MANCOS B	73.0	NORTHWEST PIPELIN
8131026	CD 0104-81	0510308601	107-TF	FORK UNIT 13-8-2-1	DRAGON TRAIL	42.0	NORTHWEST PIPELIN
8131030	CD 0101-81	0510308488	107-TF	FORK UNIT 2-29-1-1	DRAGON TRAIL	160.0	NORTHWEST PIPELIN
8131031	CD 0105-81	0510308634	107-TF	FORK UNIT 2-32-1-1	DRAGON TRAIL	164.0	NORTHWEST PIPELIN
8131033	CD 0046-81	0510308406	107-TF	FORK UNIT 4-12-1-2	DRAGON TRAIL	51.0	NORTHWEST PIPELIN
8131029	CD 0103-81	0510308583	107-TF	FORK UNIT 5-29-1-1	DRAGON TRAIL	63.0	NORTHWEST PIPELIN
8131032	CD 0102-81	0510308602	107-TF	FORK UNIT 6-8-2-1	DRAGON TRAIL	111.0	NORTHWEST PIPELIN
-NORTHWEST PIPELINE CORP			RECEIVED: 05/12/81 JA: CO 1				
8131035	CD0033-80	0506700000	108	IGNACIO 33-8 #12	IGNACIO BALNCO MESAVERDE	22.0	NORTHWEST PIPELIN
-GAS PRODUCING ENTERPRISES INC			RECEIVED: 05/12/81 JA: UT 1				
8131023	UC 219-0	4304730484	102-4	NATURAL BUTTES CIGE 14-9-10-22	BITTER CREEK	225.0	COLORADO INTERSTA
-MAPCO PRODUCTION COMPANY			RECEIVED: 05/12/81 JA: UT 1				
8131025	UC 495-0	4304730409	102-4	RBU 5-11D	ISLAND FIELD	182.5	PACIFIC GAS & ELE
**** U.S. GEOLOGICAL SURVEY - CASPER,WY**							
-DAVIS OIL COMPANY			RECEIVED: 05/12/81 JA: WY 5				
8131020	W 4-1	4900921738	102-2	GATES FEDERAL NO 3	S SCOTT FIELD	35.0	PHILLIPS PETROLEU
8131021	W 5-1	4901920378	102-2	INDIAN CREEK II UNIT 27	INDIAN CREEK II UNIT	1.0	PHILLIPS PETROLEU

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 2, 1981.

Categories within each NGPA section are indicated by the following codes:

Section:

102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Presure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18012 Filed 6-16-81; 8:45 am]
BILLING CODE 6450-85-M

JD NO	JA DET	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES									
-ADOBE OIL & GAS CORPORATION				RECEIVED: 05/15/81 JA: PA					
8131184	6900	3700522381		103		ALEX CRIBBS #1	ELDERTON	86.0	PEOPLES NATURAL G
8131189	6908	3712921172		103		BEUTEN (SHANDEL) #2	LATROBE	25.0	TITANIUM METALS C
8131199	6926	3706325969		103		GEORGE W ISENBERG #1-B	CLYMER	55.0	COLUMBIA GAS TRAN
8131190	6909	3706324247		103		INDIANA LIVESTOCK AUCTION CORP #1	INDIANA	162.0	PEOPLES NATURAL G
8131193	6912	3712921386		103		JAMES C POOLE #1	MT PLEASANT	106.0	INDUSTRIAL GAS SA
8131197	6916	3705120191		103		JOHN & KATHRYN E MCGILL #1	NEW SALEM	30.0	UGI CORP
8131186	6903	3712921164		103		JOHN W WILKINSON #3	MT PLEASANT	48.0	UNITED GAS UTILIT
8131191	6910	3712921165		103		JOHN W WILKINSON #4	MT PLEASANT	25.0	UNITED GAS UTILIT
8131195	6914	3712921166		103		JOHN W WILKINSON #5	MT PLEASANT	30.0	UNITED GAS UTILIT
8131192	6911	3712921163		103		JOHN W WILKINSON ET UX#2	MT PLEASANT	20.0	UNITED GAS UTILIT
8131187	6906	3706521990		103		LOUIS EMANUEL #3	REYNOLDSVILLE	68.0	T W PHILLIPS GAS
8131196	6915	3705120187		103		MATTHEW M REBIDAS #1	FAYETTE CITY	30.0	UGI CORP
8131198	6917	3712921217		103		NELLIE B FOSTER #1-A	BLAIRSVILLE	30.0	PEOPLES NATURAL G
8131188	6907	3700522272		103		RONALD A JANTZ #1	DISTANT	113.0	PEOPLES NATURAL G
8131185	6902	3712921159		103		WAYNE H AND A HELEN HILLIS #1	MT PLEASANT	90.0	UNITED GAS UTILIT
8131194	6913	3712921161		103		WAYNE H AND A HELLEN HILLIS #3	MT PLEASANT	40.0	UNITED GAS UTILIT
-BAKER GAS INC				RECEIVED: 05/15/81 JA: PA					
8131208	6949	3700500000		108		BLACKBURN #1	MATEER	3.5	PEOPLES NATURAL G
8131206	6947	3700521083		108		DWIGHT PATTON #1	SLATE LICK	2.2	APOLLO GAS CO
8131205	6946	3700500000		108		E J SHIREY #1	APOLLO	1.8	PEOPLES NATURAL G
8131210	6951	3700500000		108		E J SHIREY #2	APOLLO	1.8	PEOPLES NATURAL G
8131214	6955	3700500000		108		IDA RUPERT #1	MATEER	2.5	PEOPLES NATURAL G
8131215	6956	3700521995		108		KLINGENSMITH #1-R	MATEER	7.2	PEOPLES NATURAL G
8131201	6941	3700500000		108		M B BOWSER #2	BOGGS	2.9	PEOPLES NATURAL G
8131203	6944	3700500000	D	108		RUDOLPH #3	LOGANSPORT	1.8	APOLLO GAS CO
8131202	6943	3700502462	D	108		RUDOPLH #2	LOGANSPORT	1.8	APOLLO GAS CO
8131213	6954	3700500000		108		S L WILCOX #1	MATEER	3.2	PEOPLES NATURAL G
8131209	6950	3700520595		108		SAM ORR #1	VANDERGRIFT	4.7	PEOPLES NATURAL G
8131200	6940	3700500000		108		SEFTON #1		2.2	PEOPLES NATURAL G
8131204	6945	3700520054		108		VERNER #2	APOLLO	4.7	PEOPLES NATURAL G
8131207	6948	3700500000		108		WILLIAM F SHOOK #1	SLATE LICK	2.2	APOLLO GAS CO
8131211	6952	3700500000		108		WISER #1	MATEER	1.4	PEOPLES NATURAL G
8131212	6953	3700500000		108		WISER #2	MATEER	3.6	PEOPLES NATURAL G
-CENTER BAR GAS CO				RECEIVED: 05/15/81 JA: PA					
8131216	6719	3703920714		103		KENYN BURNS #80-1 PA PER CRA 20714	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED: 05/15/81 JA: PA					
8131218	6972	3706325151		103		BARBARA ANDERSON WN-1767	GREEN	0.0	GENERAL SYSTEM PU
8131217	6899	3703300987		103		JAMES M MITCHELL ESTATE WN1811	BELL	1.5	GENERAL SYSTEM PU
8131220	6974	3706521507		103		JOSEPH F LORELLI WN-1588	WINSLOW	12.9	GENERAL SYSTEM PU
8131219	6973	3706325437		103		T M BERRINGER WN-1791	PINE	0.0	GENERAL SYSTEM PU
-DOC-NCC SERVICE CO				RECEIVED: 05/15/81 JA: PA					
8131221	6699	3706325405		103		M M KIMMEL 144-2		30.0	CRUCIBLE INC
-DORAN & ASSOCIATES INC				RECEIVED: 05/15/81 JA: PA					
8131227	6600	3703320627		108		B BRUNETT #1 K-G-3	UPPER DEVONIAN SANDS	20.0	CONSOLIDATED GAS
8131223	6500	3700522089		108		C COCHRAN #1 K-E-2	UPPER DEVONIAN SANDS	20.0	INDUSTRIAL GAS SA
8131225	6538	3700522090		108		C COCHRAN #2 K-E-3	UPPER DEVONIAN SANDS	20.0	INDUSTRIAL GAS SA
8131224	6532	3706323668		108		E ROHACHECK #2 K-L-2	UPPER DEVONIAN SANDS	20.0	INDUSTRIAL GAS SA
8131222	6898	3712921727		103		J SIECZKOWSKI #1 K-Z-13	UPPER DEVONIAN SAND	30.0	T W PHILLIPS GAS
8131226	6595	3703320649		108		O MCMANUS #1 K-G-1	UPPER DEVONIAN SANDS	20.0	CONSOLIDATED NATU

JO NO	JA DKT	API NO	D	SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-EDWARD G KRIEBEL GAS CO				RECEIVED: 05/15/81 JA: PA					
8131236	6928	3704720008		108		ROLAND DILL #1	BENEZETTE	11.8	CONSOLIDATED GAS
8131235	6927	3703920049		108		THOMAS ATWOOD #1	SPRING	1.9	NATIONAL FUEL GAS
-FAIRMAN DRILLING CO				RECEIVED: 05/15/81 JA: PA					
8131228	6897	3706522262		103		THOMAS L LOVELACE NO 1 F-3000	BIG RUN	30.0	CONSOLIDATED GAS
-GOE PRO INC				RECEIVED: 05/15/81 JA: PA					
8131229	6484	3704921159		103		W A & T NAGEL-ERI-21159	ALBION	0.0	NATIONAL FUEL GAS
-KEYSTONE ENERGY RESOURCES				RECEIVED: 05/15/81 JA: PA					
8131231	6887	3706325874		103		BEDICK #6	KATHERINE BEDICK	79.8	T W PHILLIPS GAS
8131233	6931	3706324806		103		BUCKLEY #1	JOHN BUCKLEY	37.7	T W PHILLIPS GAS
8131234	6932	3706325038		103		D SMITH #1	DONALD L SMITH	100.3	T W PHILLIPS GAS
8131232	6930	3706324334		103		MCCORD #2	SAMUEL XX MCCORD	31.9	T W PHILLIPS GAS
-KRIEBEL WELLS 80				RECEIVED: 05/15/81 JA: PA					
8131238	6874	3706325565		103		ANNA S MAURER #1	ROCHESTER MILLS	31.5	
8131239	6875	3706325879		103		ANNA S MAURER #2	ROCHESTER MILLS	31.5	
8131237	6873	3706325975		103		DANIEL R M GREENLEE #1	ROCHESTER MILLS	31.5	
8131240	6876	3706325145		103		DAVID F IRVIN #1	INDIANA	29.8	PEOPLES NATURAL G
-MID-EAST OIL CO				RECEIVED: 05/15/81 JA: PA					
8131241	6892	3706325369		103		MURRAY L TREESE WELL #1	ROCHESTER MILLS	24.4	T W PHILLIPS GAS
-PEACOCK/DOVERSPIKE GAS VENTURE - 79				RECEIVED: 05/15/81 JA: PA					
8131243	6977	3706325498		102-2		OHARRAH #2 IND - 25498	W PA UPPER DEVONIAN SAND	0.0	COLUMBIA GAS TRAN
8131244	6978	3706325499		102-2		OHARRAH #3 IND - 25499	W PA UPPER DEVONIAN SAND	0.0	COLUMBIA GAS TRAN
-PENN STATE JOINT VENTURE				RECEIVED: 05/15/81 JA: PA					
8131246	6768	3705322139		108		K1423	QUEEN SAND GLADE FORMATI	4.0	QUAKER STATE OIL
8131247	6769	3705322141		108		K1425	QUEEN SAND GLADE FORMATI	4.0	QUAKER STATE OIL
8131245	6763	3705322145		108		K1427	QUEEN SAND GLADE FORMATI	4.0	QUAKER STATE OIL
8131248	6783	3705322418		108		K1453	QUEEN SAND GLADE FORMATI	4.0	QUAKER STATE OIL
8131250	6785	3705322417		108		K1454	QUEEN SAND GLADE FORMATI	4.0	QUAKER STATE OIL
8131249	6784	3705322416		108		K1455	QUEEN SAND GLADE FORMATI	4.0	QUAKER STATE OIL
-PHILLIPS PRODUCTION CO				RECEIVED: 05/15/81 JA: PA					
8131255	6921	3706323966		108		HELEN RIGELY ESTATE #3	CENTER	7.0	COLUMBIA GAS TRAN
8131254	6918	3706323903		108		JENNIE B ADAMS ESTATE #1	CENTER	10.0	COLUMBIA GAS TRAN
8131252	6935	3706325584		103		JOHN E COLONELLO ET UX ET AL #2	NORTH MAHONING	45.0	
8131253	5280	3705120219		108		KENNETH MILLS ET UX #1	FRANKLIN	16.0	COLUMBIA GAS TRAN
8131251	6869	3706325800		103		LEONARD COVATCH ET UX #1	EAST MAHONING	25.0	
-SCOTT AND HUSSING				RECEIVED: 05/15/81 JA: PA					
8131256	6929	3712921690		103		B H WOODWARD #2 #140	SALTSBURG	30.0	T W PHILLIPS GAS
-THE MUTUAL OIL & GAS COMPANY				RECEIVED: 05/15/81 JA: PA					
8131242	6840	3704921054		102-2		ROMBA #1		40.0	COLUMBIA GAS TRAN
-VICTORY DEVELOPMENT CO				RECEIVED: 05/15/81 JA: PA					
8131257	6979	3706325692		102-2		DEYARMIN #1 IND - 25692	W PA UPPER DEVONIAN SAND	0.0	COLUMBIA GAS TRAN
8131258	6980	3706325723		102-2		DEYARMIN #2 IND - 25723	W PA UPPER DEVONIAN SAND	0.0	COLUMBIA GAS TRAN
8131259	6981	3706325722		102-2		DEYARMIN #3 - IND - 25722	W PA UPPER DEVONIAN SAND	0.0	COLUMBIA GAS TRAN
8131260	6982	3706325834		103		DEYARMIN #4 - IND - 25834	W PA UPPER DEVONIAN SAND	0.0	COLUMBIA GAS TRAN
-VINEYARD OIL & GAS CO				RECEIVED: 05/15/81 JA: PA					
8131261	5562	3704920890		102-2		MARTEN #1 E-795	MARTEN #1 - LE BOEUF	5.0	NATIONAL FUEL GAS
8131262	5569	3704920941		102-2		MARTENS #2 E-807	MARTENS #2 - LE BOEUF	26.4	NATIONAL FUEL GAS
-ZODIAC RESOURCES LTD				RECEIVED: 05/15/81 JA: PA					
8131230	6817	3704921243		103		HUYA #1 ERI-21243	ALBION-EAST	0.0	COLUMBIA GAS TRAN

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before July 2, 1981.

Categories within each NGPA section are indicated by the following codes:

Sections

102–1: New OCS lease
102–2: New well (2.5 mile rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
108 : Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-18013 Filed 6-16-81; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-57-000 & RP81-17-000]

Midwestern Gas Transmission Co.; Order Accepting for Filing and Suspending Revised Tariff Sheet, Consolidating Proceedings, and Establishing Procedures

Issued May 29, 1981.

On April 30, 1981, Midwestern Gas Transmission Company (Midwestern) filed Original Volume No. 1 to its FERC Tariff to implement a dekatherm billing basis for its jurisdictional sales. Midwestern also seeks to make other tariff changes to reflect more accurately the Company's current operating conditions. Midwestern states that the proposed changes will not increase its jurisdictional revenues.

The Company requests that the proposed tariff changes become effective on June 1, 1981, except for those reflected on Original Sheets Nos. 5 and 6. Midwestern proposes that these later sheets be subject to the outcome of Midwestern's pending rate proceeding in Docket No. RP81–17–000.

In support of its filing, Midwestern maintains that its present two part demand/commodity rates are designed on the average heating value of 990 Btu/cf on its Northern System, and 1025 Btu/cf on the Southern System; however, the heating value of gas flowing through its Southern System has recently been reduced from historic levels. This reduction has occurred because Midwestern's chief supplier for the Southern System, Tennessee Gas Transmission Company (Tennessee), is purchasing a significant amount of Canadian gas which has a heat content well below 1000 Btu/cf.

To reflect these changed circumstances, Midwestern has revised its two part rate to break its commodity charge into two components, one based solely on gas costs. The demand and commodity costs which reflect solely transportation costs will continue to be billed on a volumetric basis. But the gas-related commodity component will be billed on a heat content, or dekatherm, basis. Also, Midwestern intends to reduce the minimum guaranteed heat content applicable for rate design purposes on its Southern System, from the Present 1025 Btu/cf to 967 Btu/cf.

In addition, Midwestern has proposed revisions to the definitions of various terms, measurements, measuring equipment and the forms of gas service contracts applicable to all rate schedules. Midwestern intends to cancel its Schedule CDX–1, as current operating conditions no longer require separating CDX–1 service from Schedule CD–1 service. Customers previously served under CDX–1 will now be served under CD–1.

Public notice of this filing was issued May 11, 1981, providing for protests or petitions to intervene to be filed by May 20, 1981. Petitions to intervene were filed by Inter-City Gas Corporation and Central Illinois Light Company. Having demonstrated an interest in this proceeding warranting their participation, the petitioners shall be granted intervention.

Based upon a review of Midwestern's filing, the Commission finds that the proposed tariff changes have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, the Commission will accept for filing but suspend the effectiveness of this filing, and further, set the matter for hearing.

In a number of suspension orders,[1] the Commission has addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of the other statutory standards. It has been acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. Because the proposed tariff changes purportedly will not affect Midwestern's required revenue level, the filing shall be suspended for one day, and made effective on June 2, 1981, subject to refund, and subject to the following conditions.

Midwestern has not specifically requested that the tariff filed in this proceeding supersede its currently effective Original Volume No. 1. However, as such supersession is required to make the presently filed tariff effective, the Commission will treat the filing as incorporating a request to supersede, and grant the request. Further, Midwestern has not filed supporting information, as required by 18 CFR 154.63(b)(2), to justify tariff changes other than rate level changes. As much of this required information has been filed by Midwestern in its general rate increase filing, Docket No. RP81.17–000, the Commission will consolidate this proceeding with Docket No. RP81–17–000, and treat the consolidated filings as substantally meeting the requirements of 18 CFR 154.63(b)(2). It is further appropriate to consolidate the two proceedings because several issues raised by the subject filing, particularly changes reflected on Original Sheet Nos. 5 and 6, are also present in Docket No. RP81–17–000.

The Commission Orders

(A) Midwestern's Original Volume No. 1 to its FERC Gas Tariff is accepted for filing, suspended for one day to be effective June 2, 1981, subject to refund, and subject to conditions listed in Ordering Paragraphs (B) and (C).

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[1] *E.g., Valley Gas Transmission, Inc.*, Docket No. RP–80–98 (August 22, 1980) (one day suspension); *Great Lakes Gas Transmission Company*, Docket No. RP–134 (September 24, 1980) (five month suspension).

(B) Pursuant to Sections 4 and 5 of the Natural Gas Act, an investigation shall be instituted into the lawfulness of proposed tariff changes in Docket No. RP81–57–000.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a conference in this proceeding to be held in a conference room at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, at such time as he deems appropriate. The Presiding Administrative Law Judge is authorized to establish such procedural dates as may be necessary and to rule all motions (except motions to consolidate, sever, or dismiss), as provided for in the Rules of Practice and Procedure.

(D) The proceedings in Docket No. RP81–17–000 shall be consolidated with the investigation of mid-western's ongoing general rate increase filing in Docket No. RP81–17000 for purposes of hearing and decision.

(E) The petitioners identified in this order are permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however,* That the participation of the intervenors shall be limted to matters affecting asserted rights and interests specifically set forth in the petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order entered in this proceeding.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81–17977 Filed 6–16–81; 8:45 am]

BILLING CODE 6450–85–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–C31048; PH–FRL–1854–3]

Airco Industrial Gases; Application to Conditionally Register a Pesticide Product Entailing a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that Airco Industrial Gases has submitted an application to conditionally register the pesticide product Carbon Dioxide entailing a changed use pattern.

DATE: Written comments must be received by July 17, 1981.

ADDRESS: Written comments to: William H. Miller, Product Manager (PM) 16, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William H. Miller (703–557–7040).

SUPPLEMENTARY INFORMATION: Airco Industrial Gases, 575 Industrial Ave., Murray Hill, NJ 07974, has submitted an application to conditionally register the pesticide product Carbon Dioxide, containing 99.95 percent of the active ingredient carbon dioxide. The application proposes that the insecticide be classified for general use as a grain fumigant. The product has been assigned EPA File Symbol No. 38719–L.

This application is made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136), and the regulations thereunder (40 CFR 162.6). Notice of receipt of an application does not indicate a decision by the agency on the application.

Notice of approval or denial of this application to conditionally register the pesticide product will be announced in the **Federal Register.** Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 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.

Interested persons are invited to submit written comments on this application. Comments may be submitted and inquiries directed to the product manager. The comments must be received on or before July 17, 1981, and should bear a notation indicating the document control "[OPP–C31048]" and file symbol. Comments received within the specified time period will be considered before a final 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, except legal holidays.

Dated: June 8, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81–17981 Filed 6–16–81; 8:45 am]

BILLING CODE 6560–32–M

[OPP–C31050; PH–FRL–1854–5]

Reuter Laboratories Inc.; Receipt of Application To Register a Pesticide; Product Entailing a Changed Use Pattern

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY. This notice announces that an application has been received to register the pesticide product GRASSHOPPER SPORE, entailing a changed use pattern.

DATE: Written comments must be received on or before July 17, 1981.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee (703–557–7028).

SUPPLEMENTARY INFORMATION: EPA gives notice that Reuter Laboratories, Inc., 2405 James Madison Highway, Haymarket, VA 22069, has submitted an application to conditionally register the pesticide product GRASSHOPPER SPORE, containing the active ingredient Spores of *Nosema locustae* Canning at 0.0459 percent, entailing a changed use pattern. The product is currently registered for use on rangeland forage. This application proposes that the use pattern be changed to gardner use. The product has been assigned EPA File Symbol No. 36488–G.

This application is made pursuant to the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136), and the regulations thereunder (40 CFR 162.6). Notice of receipt of an application does not indicate a decision by the agency on the application.

Notice of approval denial of the application 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, (7U.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.

Interested persons are invited to submit written comments on this application. Comments may be submitted and inquiries directed to the product manager. The comments must be received on or before July 17, 1981, and should bear a notation indicating the document control number "[OPP-C31050]" and the file symbol. 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 written comments filed pursuant to this notice, will be available for public inspection in the procuct manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

Dated: June 9, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-17960 Filed 6-16-81; 8:45 am]

BILLING CODE 6560-32-M

[SA-FRL 1854-8

Science Advisory Board, Clean Air Scientific Advisory Committee (CASAC); Open Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Clean Air Scientific Advisory Committee of the Science Advisory Board. The meeting will be held July 7-9, 1981, starting at 9:00 am on July 7 in the Main Auditorium, EPA, Environmental Research Center, Route 54 and Alexander Drive, Research Triangle Park, North Carolina. A major purpose of the meeting is to allow the Committee to review and provide its advice to EPA on the second external review draft of EPA's revised air quality criteria document for sulfur oxides and particulate matter. The draft was made available to the public recently for a period of public comment; 46 FR 15569 (March 6, 1981), 46 FR 23795 (April 28, 1981). For this review, the Committee has been divided into two subcommittees, one of which will review health effects related information and the other to review welfare effects related information. The two subcommittees will jointly consider air quality measurements and related issues before breaking to consider health and welfare effects in separate concurrent sessions.

Copies of the second draft air quality criteria document may be obtained while individual volumes are available by writing Ms. Diane Chappel, Environment Criteria and Assessment Office, MD-52, EPA, Research Triangle Park, N.C. 27711, or by calling Ms. Chappel on (919) 541-3637. Proposed revisions of the criteria document in response to public comments will be circulated to CASAC approximately three weeks prior to the July 7-9 meeting. Copies of these proposed revisions may also be obtained from Ms. Chappel. In addition, copies of the proposed revisions will be made available at the CASAC meeting.

Another major purpose of the meeting is the CASAC review of the EPA Staff Paper for Particulate Matter. A staff paper is a vehicle for preliminary identification and evaluation by EPA staff of the key scientific studies in the criteria document and critical elements to be considered in review of the pertinent national ambient air quality standard. Copies of this document may be obtained by writing Mr. John H. Haines, Office of Air Quality Planning and Standards, MD-12, EPA, Research Triangle Park, N.C. 27711 or by calling Mr. Haines at (919) 541-5531; Copies of the Staff Paper will also be made available at the CASAC meeting.

The meeting is open to the public. Any member of the public wishing to obtain information or participate should contact Terry F. Yosie, (202) 755-0263 by close of business June 30, 1981. Members of the public wishing to make formal statements at the meeting should provide a written summary to Mr. Yosie by close of business June 30, 1981.

The following members of CASAC (indicated by asterisks) and consultants will meet to review EPA's second external review draft criteria document for sulfur oxides and particulate matter, and staff paper for particulate matter.

Clean Air Scientific Advisory Committee, Subcommittee on Health Effects of SO_x/PN

*Dr. Mary Amdur, Department of Nutrition and Food Science, Room 16339, MIT, Cambridge, Mass. 02139
*Dr. Judy A. Bean, College of Medicine, Department of Preventive Medicine and Emvironmental Health, University of Iowa, Iowa City, Iowa 52242
Dr. Edward Crandall, Division of Pulmonary Disease, Department of Medicine, UCLA, Los Angeles, Calif. 90024
Dr. Bernard Goldstein, Rutgers University Medical School, Department of Environmental and Community Medicine, Piscataway, NJ 08854
Dr. Herschel Griffin, San Diego State University, School of Public Health, San Diego, California 92192
Dr. Timothy Larsen, Department of Civil Engineering, Mail Stop FC-05, University of Washington, Seattle, Washington 98195
Dr. Morton Lippmann, Institute of Environmental Medicine, New York University, New York, New York 10016
Dr. Roger O. McClellan, Director of Inhalation Toxicology Research Institute, Lovelace Foundation, P.O. Box 5890, Albuquerque, New Mexico 87115
Dr. Andrew McFarland, Dept. Civil Engineering, Texas A&M University, College Station, Texas 77843
*Dr. Vaun Newill, Exxon Corp., Associate Medical Director, 1251 Avenue of the Americas, New York, NY 10020

Subcommittee on Welfare Effects of SO_x/PM

Dr. Robert Dorfman, Department of Economics, Harvard University, 325 Littauer, Cambridge, Mass. 02138
*Dr. Sheldon Friedlander, School of Engineering and Applied Science, UCLA, Los Angeles, Calif. 90024
Dr. Ronald Hall, Section on Ecology & Systematics, Langmuir Laboratory, Cornell University, Ithaca, NY 14850
*Mr. Harry Hovey, New York Department of Environmental Conservation, 50 Wolf Road, Albany, NY 12233
Dr. Peter McMurray, Department of Mechanical Engineering, University of Minnesota, 111 Church Street, SE, Minneapolis, Minn. 55455
Dr. Michael Treshow, Dept. of Biology, University of Utah, Salt Lake City, Utah 84112
*Mr. Donald Pack, 1826 Opalocka Drive, McClean, Virginia 22101

Terry F. Yosie,

Acting Director, Science Advisory Board.

June 10, 1981.

[FR Doc. 81-17958 Filed 6-16-81; 8:45 am]

BILLING CODE 6560-34-M

[EN-H-FRL-1854-6; OPTS-50031]

Transfer of TSCA Confidential Business Information to Contractor; Data Collection by Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has awarded a contract for the purpose of conducting compliance monitoring activities under the Toxic Substances Control Act (TSCA or the Act) to Versar Incorporated, Springfield, Virginia (Contract number 68-01-6291). Versar's work assignments under the contract include information gathering activities such as inspections and sample analyses. Versar will obtain relevant compliance monitoring information in several ways. The information may be (1) Gathered by Versar during the performance of a facility inspection; (2) directly transmitted to Versar by EPA; or (3) submitted to Versar by a firm. Versar is authorized to receive confidential business information and is required to follow Agency stipulated

procedures in handling such information.

DATE: The receipt of data claimed to be confidential will occur no sooner than July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Russell B. Selman (EN-342), Environmental Protection Agency, Pesticides & Toxic Substances Enforcement Division, 401 M Street SW., Washington, D.C. 20460, (202) 755-9404.

SUPPLEMENTARY INFORMATION: The EPA is responsible for monitoring compliance with the provisions of TSCA and all regulations promulgated under the Act. The Agency has supplemented its resources available for routine compliance monitoring activities by entering into a contract with Versar Inc. Under the terms of this contract, Versar will perform a variety of compliance monitoring activities such as inspections, physical sample analyses, and surveys. During the period of the contract, Versar may conduct such activities specifically to monitor compliance with Section 6 of TSCA, 15 U.S.C. section 2605 governing polychlorinated biphenyls (PCBs), chlorofluorocarbons (CFCs), and dioxins.

The EPA anticipates that Versar will participate in compliance monitoring activities in facilities subject to the regulations cited above. Following is a list of the major industrial categories and facility categories to which these activities are expected to extend:

Chemical Manufacturers and Processors

PCB Manufacturers (past and present, including PCB by-products)
CFC Manufacturers (past and present, including hexachlorophene)
Dioxin Producers (past and present)
Dye and Pigment Manufacturers
Processors and Fillers of CFCs

Users and Handlers of PCB Equipment and Liquids

Electric Utility Facilities
Gas Transmission and Utility Facilities
Non-ferrous Metals Facilities
Paper and Lumber Facilities
Food and Feed Facilities
Stone, Clay and Glass Facilities
Textiles Facilities
Automotive Facilities
Railroad and Subway Company Facilities
Commercial Buildings
Transformer and Capacitor Manufacturing Facilities
Transformer Repair Facilities
Mining Motor Repair Facilities
Die Casting Facilities
Heat Casting Facilities
PCB Storage Facilities
Other Facilities with PCB Equipment or Liquids

Disposal Sites and Facilities

Chemical Waste Landfills
Waste Oil Handlers
Other Sites Handling Dioxin or PCB Waste

Pursuant to 40 CFR 2.306(j), EPA has determined that it is necessary for Versar to have access to confidential business information for the satisfactory performance of this contract. Any information needed to successfully complete the performance requirements under this EPA contract will be made available to Versar.

Versar has been cleared in accordance with the procedures in the EPA TSCA Confidential Business Information Security Manual to have access to confidential business information. The EPA has approved Versar's security plan and has conducted the required inspection of the Versar facility and found it to be in compliance with the requirements of the Security Manual.

TSCA subsection 14(d), 15 U.S.C. section 2613(d), provides a criminal penalty for wrongful disclosure of confidential business information, whether such disclosure is made by an EPA employee or an EPA contractor. Versar's contract specifically prohibits disclosure of confidential business information to any third party in any form without written authorization from EPA, and Versar's personnel will be required to sign a nondisclosure agreement before they are permitted to access such information.

Dated: June 8, 1981.

Warren Muir,

Deputy Assistant Administrator for Toxic Substances.

[FR Doc. 81-17059 Filed 6-16-81; 8:45 am]

BILLING CODE 6560-33-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-18]

AM Broadcast Application Accepted for Filing and Notification of Cut-Off Date

Released: June 10, 1981.

Cut-off Date: July 17, 1981.

Notice is hereby given that the following application has been accepted for filing. Because it is in conflict with an application previously accepted for filing and subject to a cut-off date for conflicting applications, no application which would be in conflict with it will be accepted for filing.

Petitions to deny this application must be on file with the Commission not later than the close of business on July 17, 1981.

Minor amendments to this application, and to the one it is in conflict with may be filed as a matter of right not later than the close of business on July 17, 1981.

BP-810430AB (new), Silt, Colorado, Rifle Broadcast Company, Req: 700 kHz, 1 kW, 50 kW-LS, DA-N, U

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 81-17909 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 81-351 Transmittal No. 13663 FCC 81-254]

American Telephone and Telegraph Co.; Institution of Investigation

Adopted: May 21, 1981.

Released: June 3, 1981.

By the Commission: Chairman Fowler abstaining from voting; Commissioner Fogarty issuing a separate statement; Commissioner Jones absent.

In the Matter of American Telephone and Telegraph Company revisions to Tariff F.C.C. Nos. 258 and 260, and the Establishment of Tariff F.C.C. No. 269, for Series 7000 Terrestrial Television Transmission Services.

1. Before the Commission are revisions to AT&T's Series 7000 terrestrial television service offerings, which would restructure the tariffs and increase rate levels. Timely petitions to reject or suspend the tariff revisions were filed by the Association of Independent Television Stations, Inc. (INTV); the three major commercial networks, ABC, CBS, and NBC in a joint petition (Networks); Educational Broadcasting Corporation, licensee of noncommercial educational television station WNET in Newark, New Jersey (WNET); Hughes Television Network, Inc. (HTN); and Wold Communications, Inc. (Wold). ITT World Communications Inc. (ITT) asks only for rejection and the Independent Television News Association (ITNA) and the Cable News Network, Inc. (CNN) seek suspension, investigation, and the imposition of an accounting order.[1]

2. As we explain below, both the petitions and our own examination of AT&T's tariff filing convince us that

[1] Late-filed pleadings were submitted by the National Association of Broadcasters (NAB), the National Hockey League and National Basketball Association, the Commissioner of Baseball, and Woweico Enterprises, Inc. Only the NAB filed a motion for acceptance of a late-filed pleading, and all of these submissions were essentially comments in support of other petitions. We will deny the NAB motion for acceptance and deny consideration of the other late-filed submissions, but any of these organizations may participate in our investigation by filing a notice of intent to participate or filing timely comments, as provided in para. 46, *infra*.

substantial questions exist as to the lawfulness of the proposed revisions. We are therefore suspending the revisions for the full statutory period of five months while we investigate and consider if necessary the prescription of a reasonable rate structure.

Background

3. The Series 7000 tariff offering encompasses AT&T's terrestrial private line television transmission services, the primary services for distribution of commercial and non-commercial television programming in the United States. These services, which provide one-directional audio/video channel transmission, have been offered continuously since 1948 to the major commercial networks (ABC, CBS and NBC), national and regional sports and entertainment networks, and intermitent providers and distributors of television programming. There are three basic Series 7000 offerings. Type 7004 Interexchange Channels are offered between customer premises in exchanges more than 25 miles apart on a full time basis. Type 7003 is a local distribution service furnished only to noncommercial educational customers on a full time basis. The third and most widely-used offering, namely Type 7001, includes three basic service elements: (1) interexchange channels (IXCs) which link the various AT&T television operating centers (TOCs) around the United States; (2) local channels (or television loops) which connect the TOCs to television broadcast studios or other points of program origination; and (3) station connections (SCs) which link IXCs) and local channels at the TOCs.

4. It has been AT&T's practice to offer two categories of Type 7001 transmission services—full time (with flat rates for a specified contract period) and part time or occasional use (with rates based on shorter duration, such as per day or per hour). Generally speaking, the three major commercial TV networks use nearly all of the full time class of service, as well as a substantial portion of the part time services. While non-network customers use some full time facilities, the overwhelming number of these users purchase the various elements of TV service on a part time basis exclusively.

5. Originally, full time service was provided for a minimum of 8 consecutive hours of use a day, 7 days a week at monthly rates based upon airline milage. Occasional use by contrast was priced on the basis of airline miles per hour of consecutive use. In 1970, however, after a hearing before an examiner upon a complaint filed by Hughes Sports Network, the Commission's Review Board concluded in the *SNI* case that the IXC service provisions of AT&T's tariff were unreasonably discriminatory and unlawful under Section 202(a) of the Act as applied to small or occasional users.[2] It found in particular that AT&T had failed to show any cost justification for the rates charged users of less than 8 hours of service. AT&T thereafter filed new rate schedules, which reduced the occasional service rate by over 50% (and over 75% for off-peak hours) and set up a sliding scale which allowed monthly contract customers to purchase one to 24 hours per day. Because the Commission believed that the new rates and rate structure might at least ameliorate the unlawful discrimination in the existing tariffs, it allowed the revisions to become effective while setting them for investigation in Docket No. 18684.[3] In 1972, however, AT&T submitted new tariffs which proposed increases in the occasional use rates (now called part time) almost to previous levels and the adoption of a single full time, 24 hour per day service. AT&T claimed these revisions were necessary to prevent its largest contract users, namely the networks, from shifting to specialized microwave carriers. The Commission also set this tariff filing for investigation, but terminated the proceeding and the pending Docket No. 18684 without a decision on the merits by accepting a stipulation of the parties to a revised tariff.[4] Under the terms of this stipulation, which was effective until December 31, 1975, AT&T retained its proposed rates, except that the increase for occasional use channels was reduced. The stipulated rates have remained in effect to the present.

6. In 1977, AT&T again sought to revise its Series 7000 tariff, this time as part of a larger submission filed in response to the cost-allocation principles enunciated by the Commission in Docket No. 18128.[5] Under those principles, AT&T was required to reprice its individual interstate service categories so that each category earned a rate of return corresponding to the firm's prescribed overall rate of return unless that requirement was waived by the Commission. For Series 7000, AT&T reported a return of 3.8% as compared to a system-wide prescribed rate of return of 9.59%. It proposed to increase the rate for each of the three major rate elements for part time service and to eliminate its "topping" provision (rate ceiling) for local channels used by part time customers. AT&T projected that the elimination of topping and the increase in part time rates would generate a 27% increase in part time revenues. At the same time, AT&T proposed to reduce some rates for full time service and increase others, for an overall reduction in full time revenues projected at 3.5%. The transmittal also would have extended from six months to one year the minimum period for full time service.

7. The Commission rejected this filing in a lengthy and detailed decision adopted on November 30, 1977, Rejection Order, 67 FCC 2d 1134 (1978). Basically, the Commission concluded that full time and part time were like services under Section 202(a) of the Act and that AT&T had failed even to attempt a cost justification for its discriminatory rate structure as required by both the *SNI* proceeding and Section 202(a) generally. AT&T had also failed to meet the tariff justification requirements of the Docket No. 18128 Order in several major respects.

8. The Commission also suggested several improvements in the subsisting tariff, including use of a usage sensitive rate structure, the removal of the full time six-month minimum service period, the averaging of IXC and (possibly) SC charges between full time and part time users, and the disaggregation of local channel costs and rates to reflect the wide variety of local channel services. In denying reconsideration we decided not to institute a prescription hearing, but placed AT&T on notice that "only substantial changes in its ratemaking approach to Series 7000 service, which has always tended to favor its largest customers to the detriment of moderate and smaller users, are likely to satisfy our substantial concerns with respect to this service." Reconsideration Order, 70 FCC 2d 2031, 2053 (1979). The Commission's decision was affirmed on appeal, *sub nom. ABC v. FCC* No. 79-1261 (D.C. Cir. October 8, 1980), *reh. den.* December 5, 1980.

AT&T's Transmittal

7. AT&T represents that the tariff revisions we consider here are intended to respond to past Commission decisions and orders, to attain a 10.5% earnings ratio, and to comply with some of the Commission's suggestions for corrective action. The revisions are filed in a new Program Transmission Service Tariff, FCC No. 269. (The major changes in rates and rate structures are shown in the Appendix.)

8. We turn to the structural changes first. For Type 7001 IXCs and SCs, the

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[2] *Hughes Sports Network, Inc.* v. *AT&T*, 25 FCC 2d 550, 560 (1970).

[3] FCC 69-1038, Docket No. 18684, October 9, 1969.

[4] *AT&T*, Docket No. 18684, 44 FCC 2d 525 (1973).

[5] *AT&T*, Docket No. 18128, 61 FCC 2d 587 (1976), *aff'd in part and vacated in part sub nom. Aeronautical Radio Inc.* v. *FCC*, No. 77-1333 (D.C. Cir. June 24, 1980).

full time/part time service classifications are to be replaced by a step rate structure. Service is to be offered at a declining unit rate for each consecutive hour of service for the first 24 hours, and a flat rate is imposed for the final rate step of 24 to 730 hours, i.e., from one day to one month. Each nonconsecutive hour of use would be charged at the first hour rate. AT&T also proposes a new requirement that any IXC channel requested for a period longer than 24 consecutive hours will require permanent facilities. Special construction charges would be applied to such permanent facilities on a case-by-case basis under AT&T Tariff FCC No. 262.

9. A step rate structure is also proposed for local channels, the third basic Type 7001 service element. Service would be offered at a declining per day rate for each consecutive day of use up to a maximum of 30 days per month. Each nonconsecutive day of use would be charged at the first day rate. In addition, a surcharge would be applied each day for the 5th through 30th consecutive days in which service is furnished using temporary portable microwave or cable systems. AT&T also proposes to restructure its Type 7004 full time, point-to-point IXC service. Present discounts for black and white transmission and for the second through fifth channels ordered would be eliminated and the initial six month minimum service period would be ended. With regard to noncommercial educational customers, AT&T proposes to delete Type 7003 service (Tariff FCC No. 260) and the Educational Network Broadcast Services (Tariff FCC No. 258). AT&T asserts that it would continue to provide service at current terms and would continue to file rate and service reports with us in accordance with Section 43.74 of the Rules. Other proposed tariff revisions include: an increase in charges for late orders, changes, and cancellations; an increase in charges for Remote Control Television Switching Arrangements; a restructuring and increase in changes for additional audio channels furnished in conjunction with television transmission services; and an increase in charges for a special video transmission wiring arrangement at the United Nations Building in New York City.

12. In regard to rate levels, AT&T projects that the filing would increase its rate of return for Type 7001 and 7004 services from 7.8% in 1979 to 10.8% in 1981. Net revenues would rise from $57.9 million to $79.5 million, an increase of 37%. However, AT&T also projects that demand for continuous, full time service will decline in 1983 as the networks and other customers migrate to satellite distribution systems. On the other hand, AT&T estimates that the proposed increases in local channel and station connection charges will discourage piece-outs of service (i.e., use of AT&T and another supplier's facilities for a single service), with the result that demand for part time Type 7001 service will, until 1983, greatly exceed the capability of AT&T's existing intercity facility network. Some migration of part time service to satellites is also projected. Based on this overall decline in demand, AT&T projects that its rate of return in 1983 at the filed rates will decline to 3.8% upon revenues of $59 million.

13. The distribution of the proposed increase varies among different services, with the greater increases assigned generally to full time services. Overall, AT&T estimates that full time rates will increase by 41% and part time rates by 4%, based on 1979 usage. For example, under the filed rates the full time charge for Type 7001 IXC channels would increase by 17% and the SC charge by 23%, while the local channel charge would increase by 124%. The rates for full time Type 7004 IXCs would increase by at least 157% and customers could experience increases of as much as 710% because of the elimination of both the lower rate for black and white transmission and discounts for additional channels.

14. For part time customers, both IXC and SC rates for the first hour of service would increase by 13%, but because of the step rate structure, charges for additional consecutive hours would be lower. A break even point would be reached at 6 consecutive hours of use from which point rates would be below current rates. Similarly, local channel rates for part time users would be increased by 11% for the first day, but are reduced for consecutive use of two or three days. However, because of the elimination of "topping" of local channel rates, which now limits monthly local channel rates to the equivalent of a two-day rate, overall increases for more than three consecutive days, or for more than two nonconsecutive days, could be much larger. Charges for the full thirty days, for example, would increase by 124%. In addition, because the rate steps are based upon consecutive days of use, a part time customer conceivably could experience far greater increases.*

15. The actual effect of these increases would depend in large part upon the needs of particular customers and the configuration of their facilities. The Network, for example, claim that ABC, CBS, and NBC would each experience annual rate increases of some $5 million. ITNA, which distributes news programs to local stations, estimates that its current costs for Series 7000 service, $200,000 a year, would increase by about 30% or $60,000. CNN, which provides a 24 hour a day news service to CATV systems, predicts a similar increase, from about $1.1 million to about $1.5 million a year. HTN, which provides a number of TV transmission services to customers who include professional baseball, basketball, and hockey teams (particularly in-place local channels from professional sports facilities and occasional IXC service) states that the local channel rates for its planned coverage of baseball games for this year would increase from $90,000 to $267,000, or almost 200%. In general, independent programmers claim that the proposed rate increases are likely to result in reductions in the amount of live news, sports, and entertainment programming provided by broadcasters. For example, INTV states that independent TV station WPIX in New York City would experience a 42% increase in transmission charges and would almost certainly reduce coverage of out-of-town New York Yankees games and other events. Other independent stations, it says, would experience similar or larger increases and lack the financial resources to absorb them without reductions in programming.

Discussion

IXC and Station Connection Services

16. To repeat, in the SNI and Rejection Orders, we concluded that full time and part time television transmission services are like services under Section 202(a) and that cost studies were required to support any rate differentials. We therefore rejected the 1977 filing, in part because AT&T had sought to justify rate differentials between these service categories only with bald assertions that there were different cost characteristics. In this filing, AT&T claims that it has eliminated the issue of whether part time and full time are like services by

*For example, the rate for 10 nonconsecutive days of local channel service would be $5890, an increase of 460% over the present "topped" rate of $1052. Of course, a user who was aware that he would need even as few as 5 nonconsecutive days of service a month could be expected to order the full 30 consecutive days at the $2358.16 rate, especially since AT&T proposes to eliminate the present 6 month minimum service requirement. But customers with unexpected service needs could experience rates higher than the 30 consecutive day rate for only a few days service.

combining them in a single, step rate structure for IXCs and SCs. The proposal before us is also claimed to satisfy the Commission's suggested adoption of a more usage sensitive rate structure, and elimination of the six-month minimum service period for full time service.[7] The Networks argue that the elimination of the full time/part time rate structures misconstrues prior Commission orders, and that AT&T mistakenly assumes it was required to file a unified rate structure for Type 7001 service elements when it might readily have demonstrated that the discrimination between these categories is reasonable. The Networks claim that the massive tariff restructuring now proposed would result in the unjustified cross-subsidization of part time service by full time.

17. Our review of the tariff reveals otherwise. That analysis shows that the proposed changes in the IXC and SC tariff structure are largely cosmetic, that AT&T's "unified" rate structure continues in fact to be two separate services at very different rates, and that AT&T still has not even attempted to justify these rate differentials. As we understand it, AT&T portrays the IXC and SC rates as unified because all usage is rated on the basis of a single, 25-step rate structure. But AT&T avoids mention of the obvious fact that the structure produces very different results when applied to occasional and continuous use. As explained, occasional use in priced under one of the first 24 rate steps based upon the number of consecutive hours of service, with the incremental rate per hour declining up to the maximum of 24 hours. For each nonconsecutive transmission, the occasional user falls under the high first hour rate step. The 25th rate step, by contrast, is in operative effect a recast of the present full time service classification under another name. Thus, it sets a single rate for all continuous use of more than 24 hours. While it is theoretically possible that a customer could place several orders for periods longer than 24 hours, thus paying several times the 24–730 hour rate in a month, such as outcome strikes us as highly improbable. Although the 1–24 hour rate steps do provide for some rate reduction for cumulative part time use, the full time rate continues to be far less expensive per hour, as shown in the following table:

Rate element	Hours			
	1	4	24	24 to 730
Station connection per connection, per hour	$95.00	$87.50	$40.50	$2.52
IXC per mile, per hour	.89	.82	.46	.09

The fact that AT&T's proposed special construction requirement applies solely to the full time, 24–730 hour service contributes significantly to this discrimination, since it is a virtual entrance requirement to full time service. Thus, any customer who does not presently have full time service and wants IXC or SC service for more than 24 consecutive hours would be required to obtain permanent facilities and pay special construction charges. Plainly this requirement makes the 24–730 hour rate step a very different offering from service for less than 24 hours.

18. As in 1977, AT&T makes no substantial attempt to justify an obvious discrimination between part time and full time services both in the rates and terms of service. Aside from maintaining that the two services have been combined in a single offering, AT&T provides no explanation for the differentials in its proposed rate steps. There may well be cost differences which would warrant rate differentials between continuous use and short term, occasional use, but AT&T has furnished no cost data or other justification for this fundamental component of the tariff scheme. It merely purports to have taken into account a myriad of factors. Similarly, AT&T fails to support its development of the 24–730 hour rate step, which covers 30 times the amount of usage of the other 24 steps combined, except to claim that historically there has been no demand for service longer than 24 hours. As this history is based upon AT&T's part time/full time rate structure which encouraged users to obtain the much cheaper monthly full time service, it is hardly persuasive evidence that there would be no demand for more granulated periods if offered. Significantly, too, AT&T apparently made no effort to examine this question in its market survey and study.

19. Most troubling of all, AT&T makes virtually no effort to justify its requirement that permanent facilities be installed for any service request longer than 24 hours, except to comment in its reply that the requirement is designed for the sole purpose of protecting ratepayers from being burdened with unneeded facilities. If there is no demand, as claimed, this requirement would be unnecessary. In any event, the requirement does not prevent unneeded facilities except to the extent that the more expensive part time rates suppress demand. Customers can obtain the same IXC and station connection service, they simply can't do so continuously. Needless to say, such a procedure would waste rather than conserve facilities. This again seems to be an unjustified discrimination and, as HTN points out, one which tends to prevent resale and arbitrage of service by customers. It also clearly favors existing full time customers, who would receive the same service as new customers for 24–730 hour services, yet would not be bound to pay special construction charges.[8]

20. We also cannot agree that AT&T has followed our previous suggestions. Although AT&T would remove the six-month minimum service requirement for full time services, as we suggested, the special construction charge requirement it proposes to add could well be an even greater restriction on customer access to the less expensive continous service. AT&T further claims that its step rate structure is responsive to the Commission's suggestion that rates be usage sensitive. A rate structure based on usage should more nearly approximate costs and provide more accurate and reasonable price signals to users. This in turn could encourage diversity in programming and efficient network utilization. For example, we noted that the unjustified full time/part time rate structure did not offer a middle ground to the recurring part time user.

21. AT&T's proposal, however, is only usage sensitive to the extent that it allows lower rates for additional consecutive hours. Thus it gives some recognition to the likely front-end costs of occasional services which are not repeated for additional, consecutive hours, and this may encourage longer transmissions. But the rate structure does not reflect usage in any other way. Recurring part time users would still pay the full first hour rate for every transmission. More importantly, AT&T offers no justification for the specific

[7] Petitioners HTN, and INTV contend, on the other hand, that the filing in fact perpetuates the same discrimination against part time users, which AT&T has never justified.

[8] The Networks did question whether the special construction charge requirement might apply to their existing arrangements, but AT&T explains in its reply that existing services would not be affected by this regulation.

rates chosen, so it is impossible to determine whether these rates are in fact related to costs.[9]

Local Channels

22. Another suggested tariff improvement was the disaggregation of local channel costs and rates to reflect the variety of local channel services, e.g., channels in place used on an occasional basis, mobile service, and full time local channels in place. With this transmittal AT&T filed studies of local channel costs which claim to show radical differences in costs between three types of channels. However, the actual rates for local channels were not disaggregated, as the following table illustrates:

Comparison of Disaggregated Required Rates [1] and Filed Rates for Local Channels

Local classification	Required rate	Filed rate	Amount filed rate is over or (under) required rate
Fixed in place (full time use) (per month)	$1,170	$2,358.16	$1,128.16
Fixed in place (part time use) (per day)	900	[2] 589.00	(311.00)
Mobile (per day)	2,615	[2] 589.00	(2,026.00)

[1] The required rate is obtained by dividing the annual costs, including a return on investment, by the projected days or months of use. Projected 1982 costs. AT&T Description and Justification, Vol. 1, p. 2-27.
[2] These rates are for the first day of service. The incremental rate for consecutive days declines from $295 for the second day to $48.16 for the thirtieth day.

Moreover, this table would appear to understate the extent to which full time local channels would subsidize both forms of part time local channels if the filed costs are accurate.[10] Additional days of local channel use are much cheaper than the first day, even when AT&T's surcharge for use of temporary facilities for more than four consecutive days is added. For example, the total charge for the fifth consecutive day of temporary microwave service is $170.62 ($48.16 for the channel plus a $122.46 surcharge). Since AT&T provides no studies of the costs of additional consecutive days of temporary local channel use, it is impossible to tell whether the cost shortfall shown in the table for the first day is even greater on the fifth.[11]

23. AT&T attributes its failure to file disaggregated local channel rates to the fact that the rates it developed for mobile service might be prohibitively high and therefore would tend to limit remote news and sports reports to locations with channels in place. It suggests this might be inconsistent with Commission objectives. AT&T also states that alternatives to AT&T's local distribution facilities are not readily available.

24. Wold urges rejection of the tariff because of AT&T's failure to file disaggregated rates. We do not agree that rejection of the aggregated local channel rates is warranted. Simply put, our suggeston to AT&T did not constitute a prescription of disaggregated rates which AT&T was required to follow.[12] Nevertheless, we continue to be concerned by AT&T's failure to significantly disaggregate local channel rates and the likely effects of its

[9] AT&T argues for instance that because it uses separate dedicated networks for full time and part time services strict rate averaging would be inherently inequitable. However, in the Rejection Order, 67 FCC 2d at 1168 we concluded that the so-called "dedication" of facilites was arbitrary and that facilities could be shifted from one use to the other as the need arose.

[10] In fact, the claimed "costs" in large part reflect demand. The actual cost of an in-place channel is presumably the same whether the customer chooses service on a full time or part time basis, and that choice is largely a function of the relative rates and rate structures. Thus, for in place channels the great difference in reported costs is probably not meaningful.

[11] AT&T mentions that the surcharge is applied because it rents temporary facilities to provide service for more than four consecutive days. Thus, the surcharge may only recoup these additional charges, not the basic difference in costs for AT&T's own facilities.

[12] ABC v. FCC, *supra*, Slip Op. at p. 7, n. 8.

apparently subsidized rates upon efficient use of facilities and upon competition. The pricing of temporary microwave channels at less than 30 percent of their claimed cost raises substantial questions of reasonableness, especially since the subsidized mobile service is or could be competitive. Petitioner Wold in fact competes with AT&T in providing temporary local channels, and there may well be other actual or potential competitors. Some users may also find it worthwhile to invest in their own facilities rather than pay unsubsidized rates. On the other hand, petitioners such as ITNA, CNN, and ITT suggest that there is a lack of available alternatives to AT&T's local channel services. To the extent that this is the case, it may be reasonable to allow some subsidization of these rates, perhaps on a temporary basis, to the extent that large, abrupt changes in these rates might disrupt valuable transmission services. We expect to explore this question more thoroughly in the investigation.

25. Petitioners also question the setting of local channel rates based upon consecutive days of use. INTV argues that the consecutive days rate structure effectively perpetuates the discrimination against part time use. For example, it points out that the rate for two non-consecutive days would be $1178 (2 × the single day rate of $589) or 33 percent more than the $884 rate for two consecutive days. Even more pronounced is the disparity in rates between full time and occasional use. A user for a single day of local channel service would pay $589, while a user who subscribes to 30-day service would pay an average daily rate of $78.60 ($2358.16 per month). The effect of this rate structure, we expect, is that any customer with a conceivable need for at least five non-consecutive days of service would subscribe to full time service to take advantage of the very low rates for additional consecutive days.

26. AT&T denies that this rate structure is unreasonably discriminatory, but, as stated, fails to provide any justification for the proposed rate differentials. Specifically, there is no documentation of any cost savings or any demonstration that the proposed rates actually approximate the cost savings for consecutive days of use. To repeat, in our Rejection Order we suggested the adoption of a usage sensitive rate structure to encourage efficient use of facilities, and to discourage both underutilization and waste. In the present filing however, the local channel rate structure clearly encourages occasional users to subscribe to full time local channel service even if they expect to use only a few non-consecutive days of service a month. It follows, therefore, that many local channels might be used only a fraction of the time.

27. These problems arise, in part, because of another tariff change, the elimination of local channel "topping". When AT&T proposed this in its 1977 filing, we concluded that elimination of the local channel "topping" provision resulted in preferential rate treatment for full time users which served to establish, maintain, and aggravate the Section 202(a) discrimination between like full and part time services. We also saw no attempt in the filing to justify such discrimination as required under Section 202(a), *SNI* and other Commission decisions. 67 F.C.C. 2d at 1177. Here, too, AT&T makes no attempt to justify the elimination of topping, and the same discriminatory effects would result. A part time customer for ten nonconsecutive days of service a month would pay a rate of $5,890, more than 400 percent higher than the current rate and over 240 percent more than the proposed rate for 30 consecutive days. This disparity may be expected to encourage customers to order full time service even if they don't need it. If the rates were "topped" near the full time rate, on the other hand, customers would no doubt order only the service they needed until they reached the "topped" rate. This could help alleviate the current shortage of part time facilities, rather than exacerbate it as AT&T's rate structure would seem to do.

28. Other features of the proposed local channel rates also appear arbitrary or unjustified. No explanation is given for the rate slope, which sets rates at $589 for the first day, $295 for the second, $148 for the third, $74 for the fourth, and $48.16 for each additional day. Nor is any significant explanation given for applying the additional charge for temporary facilities only after four consecutive days. Although AT&T states that temporary facilities are "sized" for four consecutive days of usage, and that it leases systems for longer usage, it

provides no justification for this practice and no cost data.

Allocation of Unassigned PSV Cable Investment

29. In its support material, AT&T asserts that the filed costs for Type 7001 service elements include $29.7 million in investment associated with unassigned polyethylene—shielded video (PSV) cable pairs. PSV pairs are contained in composite cables with inservice local exchange cable pairs; because of moves, cancellations, and rearrangements of television services, however, these unassigned pairs have no current or foreseeable use for television services. AT&T states that it is exploring the use of these unneeded facilities (55% of all PSV pairs) for future private line applications. The filed rates propose to allocate this investment to all three Type 7001 service elements so as not to impose the full burden on local channels. (AT&T also submitted lower, illustrative rates which it states it is willing to substitute for the filed rates. These rates are based upon the assignment of this investment to all private line service, and are about 11% below the filed rates for IXCs, SCS, and local channels.)

30. The commenters on this issue favor substitution of the lower alternative rates. The Networks and HTN also argue on the basis of classic ratemaking principles that the investment should not be included in the rate base because it is not "used and useful" for the provision of service to the public. AT&T replies that this investment may be disallowed only if shown to have been inefficient or improvident when made or made in bad faith, and that this is not the case here.

31. In Docket No. 19129[13] we discussed applications of the "used and useful" standard to rate base valuation, specifically with regard to AT&T. We there rejected an AT&T proposal which would have allowed a return based upon the amount of investment capital provided to AT&T or the amount of past prudent investment, concluding that we could not countenance an approach which would require ratepayers to pay a return to AT&T's investors on capital which to the ratepayers was nonproductive. 64 FCC 2d at 49. Among examples of plant and property which may not be considered used and useful under the facts of a particular case, we listed overbuilt plant, property temporarily out of use, and property once used and useful but no longer so because of a decrease in business.

[13] *AT&T*, Docket 19129, 64 FCC 2d 1, *aff'd on recon.* 67 FCC 2d 1429 (1978).

32. There is ample authority for this approach. See *e.g., Los Angeles Gas Co. v. Railroad Comm'n of California*, 289 U.S. 287, 306 (1933), *St. Joseph Stock Yards Co. v. United States* 298 U.S. 38, 56–57 (1936); *Denver Union Stock Yard Co. v. United States*, 304 U.S. 470 (1938); *Minneappolis Street Railway Co. v. City of Minneapolis*, 86 N.W. 2d 657 (Sup. Ct. Minn. 1957); *Kansas Gas and Electric Co. v. State Corp. Commn.* 544 P. 2d 1396 (Sup. Ct. Kan. 1967); *Home Tel. Co. v. Carthage*, 139 S.W. 547 (Sup. Ct. Mo. 1911). Thus, we could arguably disallow the unusable PSV investment from AT&T's rate base. However, as our decision in Docket No. 19129 indicates, the issue depends upon the particular facts of the case. For this reason, as part of our investigation we will seek further comment on the principles to be applied.

Services for Noncommercial Educational Broadcasters

33. Under Section 396(h) of the Act, 47 U.S.C. §396(h), carriers may provide services free or at reduced rates to noncommercial educational television or radio services. Carriers are required to report the furnishing or denial of such services quarterly, pursuant to Section 43.74 of the Commission's Rules, 47 C.F.R. §43.74. AT&T currently provides Type 7003 local distribution services only to educational customers. Type 7004 IXC service is also provided to educational customers, but is not limited to them. A few specified educational customers in Georgia, Kentucky, and Louisiana also receive reduced rate services pursuant to the Educational Network Broadcast Services offering in AT&T Tariff FCC No. 258.

34. In the transmittal, AT&T states that it will continue to charge these educational customers at current levels. However, it also proposes to delete the Type 7003 and the Educational Network Broadcast Services offerings from its tariffs. AT&T states that requests for rearrangement of existing services or for new services would be furnished on an individual case basis at charges developed to cover relevant costs. Existing and new services would be reported as required by Section 43.74 of the Rules. AT&T also proposes to include the revenues and costs for services furnished to educational customers in the Private Line FDC category.

35. Although AT&T is silent on the point, the Commission has already decided the question of whether reduced rate services to educational customers may be detariffed. Thus, in *Public Broadcasting Service*, 63 F.C.C. 2d 707, 722–23 (1977), we specifically determined that free or reduced rate services under Section 396(h) must be tariffed under Section 203 of the Act.[14] AT&T's proposal to detariff its offering to noncommercial educational customers is thus in conflict with a prior Commission order. However, no customer has objected to detariffing these services and the filing of reports may make unnecessary the filing of tariffs as well. We will request comments on this issue.[15]

Other Issues

36. Many of the petitioners question the need for a rate increase and the Networks seek rejection on the ground that the Interim Cost Allocation Manual (ICAM) does not require that individual services must immediately earn a 10.5% return. While this in fact may be the case, it is no basis for rejection. Here, AT&T proposes to increase the calculated return from 7.8% to 10.5% in the first year. If accurate, Series 7000 earnings would not approach unreasonable high levels.

37. ITT urges rejection essentially on the ground that AT&T improperly and anticompetitively requires customers for international record carrier (IRC) international television transmission services to obtain three local channels to access a Comsat overseas switch, by denying direct connection between the customer's premises and the IRC's premises. ITT claims AT&T's own international customers need only obtain a single local channel to AT&T's television operating center. ITT argues that in this context the 124% increase local channel rates would eliminate IRC

[14] In response to a staff letter, AT&T cites a Commission ruling in Docket No. 18316, 20 F.C.C. 2d 491, 496 (1969) that AT&T could furnish its tariffed, commercial service to the Corporation for Public Broadcasting at reduced rates without any further tariff filings. There AT&T was required only to submit reports of such service pursuant to our rules. AT&T misunderstands the thrust of this decision. It did not allow detariffing of services, only the provision of commercial tariffed services at less than the tariff rate. In short, a tariff was still required to be on file.

[15] We also note that in *Free or Reduced Rate Interconnection Service for Noncommercial Educational Broadcasting*, Docket No. 18316, 20 F.C.C. 2d 491 (1969), we reaffirmed an earlier finding that the intent of Section 396(h) was that subsidization of public broadcasting as a matter of policy should be borne by general telephone users. We then granted a declaratory ruling that all costs for service under Section 396(h) "shall be treated as related to common carrier interstate services and as such shall be included in the carriers total interstate rate base and operating expenses." 20 F.C.C. 2d at 492, 494. See also, *Report and Order*, Docket No. 18216, 17 F.C.C. 2d 155, 158 (1969). While we encourge AT&T to provide reduced rate service under Section 396(h), AT&T is placed on notice that its treatment of costs for reduced rate services to noncommercial educational customers should comply with this ruling, and that allocation of those costs solely to private line customers is improper.

competition to AT&T for international TV services, leaving only AT&T. However, ITT cites no tariff or contract provision substantiating this alleged practice, and no actual examples. In its reply, AT&T denies any such practice, and claims there is no reason why a customer cannot be connected directly to an IRC operating center via a single local channel, or indeed by an IRC—provided channel. In the absence of any evidence to support ITT's claim of an anticompetitive practice, we discern no basis for rejection or investigation at this time.

38. The Networks raise a number of questions concerning the validity of AT&T's market studies, its treatment of facilities available for future growth under the ICAM, the allocation of certain categories of plant, and other issues relating to costs. None of these issues, in our view, presents grounds for rejection since there is no showing of patent violation of the statute, a Commission rule, or an order. In any case, we think the better course is to defer their consideration until we examine some more pressing rate structure issues, as explained below. We expect to be in a better position at that time to determine whether these issues require further consideration.

Conclusion

39. The present filings has essentially the same problems as AT&T's rejected 1977 transmittal, and while the proposed rate structure shows some improvement (e.g., the more graduated rate structure), other changes are either cosmetic (e.g., the claimed unification of full time and part time rates) or arbitrary (e.g., the special construction charge and the aggregated local channel rates). Once again, AT&T fails to make even a threshold attempt to justify the apparent discrimination between full and part time use. Although the various major areas of this filing which lack adequate justification provide adequate grounds for rejection of the proposed tariff changes under our previous orders as well as Section 202(a) of the Act, we believe this is an appropriate case to exercise our discretion to proceed by investigation rather than rejection. *Associated Press v. FCC*, 448 F. 2d 1095 (D.C. Cir. 1971). Drawing on our similar experience with developing a lawful WATS tariff, we think the better course is to initiate an investigation to determine a reasonable structure for this service. AT&T, FCC 80-777, released December 29, 1980. Only after such an investigation, it now appears, will we be able to assure that rates and terms for the services are just, reasonable, and not unreasonably discriminatory.

40. We will also suspend the effectiveness of the proposed revisions for the full statutory period of five months. Some of the controversial regulations proposed, such as the special construction requirement and the elimination of topping, could have a major rate impact upon customers and could cause shifts in service and facility arrangements and disruptions in this market. These factors alone warrant the exercise of our suspension power in order to protect the user public.[16] We hope to make substantial progress in our investigation during this five-month period. We do want to make clear, however, our view that the proposed tariff in some respects improves upon the filing we rejected in 1977, particualrly the elimination of minimum service terms and the more flexible rate structure. The assignment to occasional users of generally lower rate increases and in some instances actual reductions may also moderate the discrimination between part time and full time service. It is possible that a reasonable tariff can be developed by modifying the proposed tariff, even if it is found to be unlawful as filed.

41. The structure of the new rates also at least provides a format for integrating part time and full time services into a single structure. Under present tariffs, the single television market is segmented into two sectors, part time and full time, through the use of separate rate elements operating in conjunction with minimum service terms. These arbitary minimum service periods for full time service insure that no migration could take place between the segmented market sectors. Now that such devices as these have been eliminated from the basic rate structure we believe that a workable basis exists for further refinement to achieve an acceptable, lawful rate structure.

42. In the structure AT&T proposes, IXC mileage rates are time-of-use sensitive, i.e., the average hourly rate declines as the service terms lengthens. As a general practice, we have always allowed the use of rate averaging whereby fixed and variable costs are merged into some form of curvilinear rate structure. An example of this is the distance sensitive rates for certain voice and telegraph-grade interexchange channels. Another example is the amortization of what would normally be non-recurring or one-time charges through a merger of these charges with the monthly recurring charge for most private line channel services. Thus, the ratemaking principle of distributing costs over time or distance on a cost averaging basis is not a novel one. What we must examine, however is the question of whether or not this method of averaging gives rise to unreasonable discrimination as between customers with different usage characteristics. When improperly employed, rate averaging or deaveraging can be just as effective a market segmentation device as the use of separate rate structures for like services. We will examine, therefore, the question of whether or not the rate averaging employed by AT&T is reasonable or whether it unfairly creates artificial demarcations between different service attributes, such as length of service, so as to limit efficient use of television channels or burden certain sectors of the market with costs that should properly be distributed over the entire market. The great disparity in hourly and daily charges under the filed tariff is presumably intended to reflect start-up and discontinuance costs attributable to different occasions of leased channel usage. By distributing these costs over a narrow band of hours, however, AT&T appears to have segmented the market into one-day and one-month periods of use. This is accomplished by making the charge for 25 hours equivalent to the charge for one month. We can conceive of no justification for such a practice, particularly in view of the fact that the costs distributed over the one-day period could be protracted and lessened by encouraging usage for intermediate time periods. For example, if three customers were to require service between the same two points for three continuous days, each day would be charged for as though it were a new start-up and discontinuance of service which it clearly is not. The customer who maintains service for a month or longer, however, may not be bearing any of the charges for start-up and discontinuance even though such a customer may terminate service any time he wishes on a month to month basis. We will consider, therefore, prescribing a rate structure which reflects a more reasonable means of rate averaging to encourage greater efficiency in use of service and distribute cost burdens in a fair manner.

43. On the other hand, our analysis provides no basis for specific objection to the proposed increases in charges for Type 7004 channels, late orders, changes and cancellations, Remote Control Television Switching Arrangments, additional audio channels, and service at the UN building. AT&T may implement these changes by separate filing.

[16] It is for this reason that we have suspended for five months rather than only for one day.

44. As we have said, our investigation is intended to examine in the main the legal and policy issues relating to the reasonable of AT&T's proposed Type 7001 rates structure, and the possible precription of a rate structure. The specific issues in the investigation are as follows:

A. Issues concerning the reasonableness of AT&T's proposed tariff revisions.

1. Whether the proposed step rate structure for IXCs and SCs, particularly the rate slope and use of a 24–730 hour final rate step, is just and reasonable.

2. Whether the requirement that any customers ordering IXC and SC services for more than 24 hours consecutively obtain permanent facilities is just and reasonable.

3. Whether the use of a rate structure based upon consecutive hours of use for IXCs and SCs, and consecutive days of use for local channels, is just and reasonable.

4. Whether the aggregation of local channel rates without regard to the actual facilities used is just and reasonable.

5. Whether the proposed surcharge for temporary local channels used more than four days consecutively is just and reasonable.

6. Whether AT&T's investment in unassigned PSV channels should be removed from AT&T's rate base, or assigned to all private line services, or assigned solely to television transmission service.

7. Whether AT&T's proposal to eliminate "topping" of local channel rates is just and reasonable.

8. Whether the proposed rate structure for Type 7001 IXCs, SCs, and local channels is unreasonable discriminatory under Sec. 202(a) of the Communications Act.

B. Prescription issues.

1. Whether a rate structure with a more reasonable means of averaging fixed and variable costs should be prescribed.

2. Whether a rate structure with disaggregated costs and rates for different types of local channels, i.e., permanent in-place cable temporary cable, and temporary microwave facilities, would be just and reasonable.

3. Whether any other changes or additions to the structure of changes or additions to AT&T's proposed television transmission tariff would be just and reasonable.

C. Reduced rate services to noncommercial educational broadcasters.

1. Whether AT&T should be allowed to detariff its offerings of television transmission service to noncommercial educational broadcasters.

45. Accordingly, it is ordered, That pursuant to Section 4(i), 4(j), 201, 202, 203, 204, 205, and 403 of the Communications Act, 47 U.S.C. §§ 154(i), 154(j), 201, 202, 203, 204, 205, and 403, an investigation is instituted into the lawfulness of the American Telephone and Telegraph Company's tariff revisions filed under Transmittal No. 13663.

46. It is further ordered, That the American Telephone and Telegraph Company; the Association of Independent Television Stations, Inc.; ABC, CBS and NBC; the Educational Broadcasting Corporation; Hughes Television Netowrk, Inc.; Wold Communications, Inc.; ITT World Communications, Inc; the Independent Television News Association; and Cable News Network shall be parties to this proceeding. Any other interested person seeking to participate in this investigation may become a party either by filing a notice with the Commission within 30 days of the release of this order, or by filing a reply case or comments in response to the American Telephone and Telegraph Company's direct case.

47. It is further ordered, That the American Telephone and Telegraph Company shall submit its direct case within 45 days of the release of this order. Other parties may file their reply cases or comments within 30 days thereafter. The American Telephone and Telegraph Company may file its response within 15 days thereafter.

48. It is further ordered, That tariff revisions filed by the American Telephone and Telegraph Company under Transmittal No. 13663 are suspended for a period of five months.

49. It is further ordered, That the petitions to reject, or in the alternative, to suspend and investigate the American Telephone and Telegraph Company's tariff revisions ARE GRANTED to the extent indicated and otherwise ARE DENIED.

50. It is further ordered, That this action is effective immediately.

51. It is further ordered, That the Secretary shall cause this Order to be published in the **Federal Register.**

Federal Communications Commission.[17]

William J. Tricarico,

Secretary.

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[17] See attached separate statement of Commissioner Joseph R. Fogarty.

APPENDIX

COMPARISON OF

PRESENT RATES AND FILED RATES

TYPE 7001 INTEREXCHANGE CHANNEL AND STATION CONNECTION

Present Rates IXC		Step	Consec. Hrs. of Use Over	To	Filed Rates IXC Per Mile	Per SC
. Part-Time	$ .79 Mi/Hr	1	0	- 1	0.89	95.00
		2	1	- 2	1.73	185.00
. Full-Time	57.82 Mi/Mo.	3	2	- 3	2.52	270.00
		4	3	- 4	3.27	350.00
		5	4	- 5	3.98	425.00
		6	5	- 6	4.65	495.00
		7	6	- 7	5.28	560.00
		8	7	- 8	5.87	620.00
		9	8	- 9	6.42	675.00
SC		10	9	- 10	6.93	725.00
		11	10	- 11	7.41	770.00
. Part-Time	$ 84.10 SC/Hr	12	11	- 12	7.86	810.00
		13	12	- 13	8.28	845.00
. Full-Time	1,577.00 SC/Mo	14	13	- 14	8.67	875.00
		15	14	- 15	9.03	900.00
		16	15	- 16	9.36	920.00
		17	16	- 17	9.66	935.00
		18	17	- 18	9.93	945.00
		19	18	- 19	10.17	952.00
		20	19	- 20	10.38	958.00
		21	20	- 21	10.56	963.00
		22	21	- 22	10.71	967.00
		23	22	- 23	10.83	970.00
		24	23	- 24	10.93	972.00
		25	24	- 730	67.65	1,944.87

Full-time subject to initial 6-month minimum service period.

Initial 6-month minimum service period is eliminated.

TYPE 7004 INTEREXCHANGE CHANNEL

	Present Rates Per Mile, Per Month		Filed Rates Per Mile, Per Month
	Monochrome	Color	Per Channel
Channel 1	$28.91	$33.11	$85.22
Channel 2	13.14	15.77	
Channel 3	13.14	33.11	
Channel 4	10.51	15.77	
Channel 5	10.51	33.11	

. Full-Time only
- Declining rate structure for additional channels (up to 4) between same two customer premises

. Full-Time only
- Eliminates declining rate structure for additional channels
- Eliminates rate distinction between monochrome and color

LOCAL CHANNELS

Present Rates		Step	Consec. Days of Use Over	To	Filed Rates Per Chan	Additional Charge for Use of Temp. Fax. MW	Cable
.Part-Time	$ 526 LC/DAY	1	0	1	$ 589.00	-	-
		2	1	2	884.00	-	-
-Maximum Charge (for usage in		3	2	3	1032.00	-	-
		4	3	4	1106.00	-	-
any consec.		5	4	5	1154.16	122.46*	71.38*
30-day period)	$1,052	6	5	6	1202.32	-	-
		7	6	7	1250.48	-	-
.Full Time	$1,051 LC/Mo	8	7	8	1298.64	-	-
		9	8	9	1346.80	-	-
		10	9	10	1394.96	-	-
		11	10	11	1443.12	-	-
		12	11	12	1491.28	-	-
		13	12	13	1539.44	-	-
		14	13	14	1587.60	-	-
		15	14	15	1635.76	-	-
		16	15	16	1683.92	-	-
		17	16	17	1732.08	-	-
		18	17	18	1780.24	-	-
		19	18	19	1828.40	-	-
		20	19	20	1876.56	-	-
		21	20	21	1924.72	-	-
		22	21	22	1972.88	-	-
		23	22	23	2021.04	-	-
		24	23	24	2069.20	-	-
		25	24	25	2117.36	-	-
		26	25	26	2165.52	-	-
		27	26	27	2213.68	-	-
		28	27	28	2261.84	-	-
		29	28	29	2310.00	-	-
		30	29	30	2358.16	-	-

Full-Time subject to 6-month service period

* Charge will apply per day for the 5th through 30th day in each consecutive 30 day period, for each microwave or cable system used in furnishing temporary facilities.

. Initial 6-month minimum service period and maximum charge application eliminated.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: American Telephone and Telegraph Company, Revisions to Tariff F.C.C. Nos. 258 and 260, and the Establishment of Tariff F.C.C. No. 269, for Series 7000 Terrestrial Television Transmission Services.

I wish I could take joy in the Commission's action suspending and investigating AT&T's proposed Series 7000 tariff revisions. I cannot. More than two years ago I dissented to the Series 7000 Reconsideration Order because I believed that instead of permitting AT&T a second "bite of the apple," administrative efficiency dictated that the Commission immediately institute a hearing on the lawful rate structure for the Series 7000 services.[18] I Stated:

> If we wait for AT&T to submit another filing, and if we should find that a hearing is required, we will have to determine first the lawfulness of the filed tariff. If it is found unlawful in whole or part, we must then begin the . . . process . . . to prescribe rates. Thus, we will not only delay the final decision, but we will have extra burdens placed upon us as well . . . . 70 F.C.C. 2d at 2055.[19]

My prognostication has been realized. I hate to say it but . . . I told you so!

[FR Doc. 81-17910 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

KRLC Inc., et al.; Applications for Hearing on Consolidated Issues

[BC Docket No. 81-375, File No. BPH-800 421AH, et al.]

In re Applications of KRLC, INC. Lewiston, Idaho Req: 106.9 MHz, Channel 295C 99 kW (H&V), 1230 feet; BC Docket No. 81-375 File N. BPH-80042AH; Bill M. Holzheimer, Beckki L. Holzheimer and J.J. Streibick & Assoc. Inc., d/b/a/ Nez Perce Broadcasting Lewiston, Idaho Req: 106.9 MHz, Channel 295C 87.846 kW (H&V), 960.3 feet; BC Docket No. 81-376 File No. BPH-800710AA; Seaport Broadcasters, Inc. Lewiston, Idaho Req: 106.9 MHz, Channel 295C 100 kW (H&V), 1230; BC Docket No. 81-377 File No. BPH-800829AB.

Adopted: June 1, 1981.

Released: June 9, 1981.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by KRLC, INC. (KRLC), Bill M. Holzheimer, Beckkii L. Holzheimer and J.J. Streibick & Associates, Inc. d/b/a Nez Perce Broadcasting (Nez Perce), and Seaport Broadcasters, Inc.

2. Analysis of the financial data submitted by KRLC reveals that $106,128 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$16,972
Equipment payments	32,437
Land	335
Building	10,000
Miscellaneous	16,000
Operating cost (3 months)	24,759
Total	104,503

Applicant plans to finance construction and operation with the following funds: (i) $9500 in cash (ii) $50,508 net loan from Seaport Citizens Bank (iii) $55,400 net loan from Donald A. Thomas, and (iv) $4713 in profits from existing operations. Applicant however failed to submit a balance sheet or financial statement from Donald A. Thomas as required by Paragraph 4(b) of Section III. The applicant has, therefore, only shown $64,721 available to meet a requirement of $106,128. Accordingly, a financial issue will be specified.

3. Analysis of the financial data submitted by Nez Perce reveals that $59,880 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment lease	$9,630
Building	3,000
Miscellaneous	7,000
Operating cost (3 months)	40,250
Total	59,880

Nez Perce plans to finance construction and operation with the following funds: (i) $12,000 in cash (ii) $89,500 net loan from Valley Bank, and (iii) $75,800 in estimated advertising sales. The $89,500 loan letter from the Valley Bank cannot be relied upon because it failed to comply with paragraph 4(e) of Section III which requires that the interest rate of the loan, the terms of repayments and collateral or security be stated. Additionally, we cannot allow reliance on projected revenue earning. The financial standards adopted in 1978 requires applicants to demonstrate the ability to construct the station and operate for three months, without relying upon advertising. See *Financial Qualifications Standards for Aural Broadcast Applicants*, 69 FCC 2d 407(1978). The applicant has, shown therefore, only $12,000 available to meet a requirement of $59,880. Accordingly, a financial issue will be specified.

4. Examination of Nez Perce's application reveals that applicant failed to file an Equal Employment Opportunity Program as required by Section 73.2080 of the Commission Rules and Regulations. Accordingly, applicant will be required to remedy this deficiency by filing an EEO program with the Administrative Law Judge.

Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/v or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to one of the applicants.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are desigated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1.To determine with respect to KRLC: (a) the source of availability of additional funds over and above the $64,721 indicated; and (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

2. To determine with respect to Nez Perce: (a) the source of availability of additional funds over and above $12,000 indicated: (b) whether, in light of evidence adduced pursuant to (a) above the applicant is financially qualified.

3. To determine which of the proposals, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the

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[18] Separate Statement of Commissioner Joseph R. Fogarty, dissenting in part, AT&T Company, 70 F.C.C. 2d 2031 (1979) [Reconsideration Order].

[19] *See also*, Separate Statement of Commissioner Joseph R. Fogarty, AT&T Company, 67 F.C.C. 2d 1134 (1978) [Rejection Order] where I stated: Rather than simply requiring the carrier to file a new tariff, in which case we might be forced either to reject again or to initiate an investigation some months later, [footnote omitted] I believe that it would be more efficient by far to look now toward a Commission-prescribed tariff for this service, after hearing. 67 F.C.C. 2d at 1193.

foregoing issues, which of the applications should be granted.

8. It is further ordered, That in the event the application of KRLC is granted, it is subject to the condition that if the Commission ultimately adopts a rule prohibiting commonly owned AM and FM Stations in that same market, KRLC will divest itself of either its AM station or FM station in accordance with the requirements established in such rulemaking proceeding.

9. It is further ordered, That Nez Pez shall file an Equal Employment Opportunity Program with the presiding Administrative Law Judge.

10. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a) (2) of the Communications Act of 1934, as amended and Section 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry Eads,

Acting Chief Broadcast Facilities Division.

[FR Doc. 81-17911 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

BC Docket No. 81-361, Filed N. BPCT-800429 KF]

Vencap Investment Corp., et al.; Applications for Consolidated Hearing on Stated Issues

Adopted: May 21, 1981.

Released: June 9, 1981.

By the Chief, Broadcast Bureau:

In re Applications of Vencap Investment Corporation Tallahassee, Florida, BC Docket No. 81-361 File No. BPCT-800429KF; Holt-Robinson Television, Inc. Tallahassee, Florida, BC Docket No. 81-362 File No. BPCT-800908KE; Octagon Broadcasting Company Tallahassee, Florida, BC Docket No. 81-363 File No. BPCT-800908KF; JGM, Inc. Tallahassee, Florida BC Docket No. 81-364 File No. PBCT-800908KI; For a Television Construction Permit

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Vencap Investment Corporation (Vencap), Holt-Robinson Television, Inc. (Holt-Robinson), Octagon Broadcasting Company (Octagon), and JGM, Inc. (JGM) for a new commercial television station to operate on Channel 40 in Tallahassee, Florida.

Vencap Investment Corporation

2. Vencap estimates that $158,306 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment rental:	
(Deposit)	$4,945
(5 months)	12,361
Building	5,000
Legal, engineering, installation, and other miscellaneous costs	10,000
Operating costs (3 months)	126,000
Total	158,306

Vencap proposes to locate its transmitter atop and its studio in the Tallahassee Hilton Holtel, but the applicant has not indicated the number of months the $5,000 would cover. Consequently, we are unable to accurately determine the cost of leasing the antenna site and studio space for five months (two months of construction and three months of operation). Further, Vencap proposes only $5,000 for legal expenses, but that amount would appear to be unrealistically low, since the cost of prosecuting the application through an administrative hearing must be included. Accordingly, issues will be specified to determine the reasonableness of the Applicant's estimated legal expenses.

3. To meet these expenses, Vencap intends to rely entirely on $156,871 in existing capital; however, we cannot determine the net liquid assets available to the applicant, since its balance sheet was outdated upon the initial filing of its application. See FCC Form 301, Section III, Question 2a. Consequently, we are unable to determine the availability of any funds to Vencap, and an appropriate financial issue will be specified.

4. Vencap fails to indicate when the surveys of both community leaders and the general public were conducted, as required by Question and Answer 15 of the *Primer on Ascertainment of Community Problems by Broadcast Applications*, 27 FCC 2d 650 (1971). Accordingly, an appropriate ascertainment issue will be specified.

Holt-Robinsion Television, Inc.

5. In the event of a grant of Holt-Robinson's application, the construction permit will be conditioned to require Holt-Robinson to demonstrate that its proposed tower would not alter the radiation patterns of nearby Stations WCVC(AM) and WKQE(AM).

Octagon Broadcasting Company

6. Octagon proposes to be the 100% satellite station of WMBB(TV), Panama City, Florida. Since the other applicants do not propose satellite operations, Octagon must justify the need for a satellite. *Multiple Ownership*, Docket No. 14711,, 3 R.R. 2d 1554 (1964); *Newhouse Broadcasting Corporation*, 77 FCC 2d 97 (1980). Accordingly, an issue as to the need for satellite operation in Tallahassee will be specified.

7. Octagon estimates that $175,825 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment and installation	$165,825
Operating costs (3 months)	6,000
Unstated purpose	4,000
Total	175,825

The applicant does not indicate the costs it will incur in acquiring a transmitter site and transmitter building. Further, Octagon has not provided for the legal and engineering costs incident to the prosecution of its application through the hearing process. Acccordingly, appropriate financial issues will be specified.

8. To meet its expenses, Octagon intends to rely entirely on the cash flow from operations of primary station WMBB(TV) and on the foregoing of the repayment of interst on outstanding loans from its 100% parent, Agronomics Incorporated—both totalling more than $200,000. Octagon, however, has not submitted an agreement whereby Agronomics would forego the interest repayment. Since the applicant has not separately itemized the cash flow from operations of WMBB(TV), we are unable to determine the availability of any funds to Octagon, and an appropriate financial issue will be specified.[1]

9. Octagon fails to indicate who conducted its survey of community

[1] We note that even if Octagon had submitted an agreement from Agronomics foregoing the interest repayment, the applicant would still have been financially deficient, since the $200,000 figure would be the cash flow from operations and repayment of interest over an entire year, and Octagon must show the availability of funds within a five month period (two months for construction and another three for operating costs).

leaders, as required by Question and Answer 11a of the *Primer*. The applicant also fails to indicate when the survey was taken, as required by Question and Answer 15 of the *Primer*. Accordingly, appropriate ascertainment issues will be specified.

JGM, Inc.

10. JGM estimates that $2,458,623 will be required to construct its proposed station and to operate it for three months, itemized as follows:

Equipment	$1,864,321
Land	110,000
Building	50,000
Installation and other miscellaneous costs	10,000
Operating costs (3 months)	404,302
Total	2,458,623

JGM has not provided for the legal and enginering costs incident to the prosecution of its application through the hearing process. Accordingly, an appropriate financial issue will be specified.

11. To meet its expenses, JGM intends to rely on deferred credit on the purchase of its equipment from RCA and from Comark Communications, Inc., a $2,000,000 (net $1,935,000) loan from the First National Bank of Dayton, and $1,000 in existing capital.

12. The credit letters from Comark Communications, Inc. and RCA expired on May 15, 1980, and June 13, 1980, approximately three months prior to the filing of JGM's application. Although we have allowed expired credit letters, we have done so only when the time entailed in processing or in hearing caused the letters to expire. *Contemporary Television Broadcasting, Inc.*, Mimeo No. 05812 (FCC,, released Jan. 16, 1981). We have not accepted credit letters that would have been unacceptable at the time the application was filed.

13. In that JGM has not submitted its balance sheet, as required by FCC Form 301, Section III, Question 2a, we cannot determine the availability of any existing capital to the applicant. Consequently, even with the availability of its $2,000,000 (net $1,935,000) bank loan, JGM would require an additional $523,623 plus legal and engineering costs, and an appropriate financial issue will be specified.

14. Rather than conducting its own ascertainment survey of the general public, the applicant relies on a study commissioned by the City of Tallahassee in the Fall of 1978, nearly two years before the filing of JGM's application; however, Question and Answer 15 of the *Primer* requires consultations to be held within six months of the filing. Accordingly, an appropriate ascertainment issue will be specified.

Conclusion and Order

15. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.

16. 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, with respect to Vencap Investment Corporation:

(a) the cost of leasing an antenna site and studio space for five months;

(b) whether $5000 will be adequate to meet the applicant's legal expenses, and if not, the legal costs that will be required;

(c) in light of the evidence adduced pursuant to (a) and (b) above, Vencap's construction and three month operating costs;

(d) the availability of financial resources to meet the applicant's construction and three month operating costs;

(e) whether, in light of the evidence adduced pursuant to (a)–(d) above, the applicant is financially qualified;

(f) Whether the applicant has complied with the provisions of Question and Answer 15 of the *Primer*;

(g) Whether, in light of the evidence adduced pursuant to (f) above, the applicant is qualified.

2. To determine, with respect to Octagon Broadcasting Company:

(a) Whether circumstances exist which would make operation as a "satellite" necessary for Tallahassee, Florida, and, if not, the effect thereof on the applicant's basic qualifications;

(b) The costs of a transmitter site, transmitter building, legal and engineering services;

(c) In light of the evidence adduced pursuant to (b) above, Octagon's construction and three month operating costs;

(d) The availability of financial resources to meet the applicant's construction and three month operating costs;

(e) Whether, in light of the evidence adduced pursuant to (b)–(d) above, the applicant is financially qualified;

(f) Whether, with respect to its community leader survey, the applicant has complied with the provisions of Questions and Answers 11a and 15 of the *Primer*;

(g) Whether, in light of the evidence adduced pursuant to (f) above, the applicant is qualified.

3. To determine, with respect to JGM, Inc.:

(a) The applicant's legal and engineering costs;

(b) In light of the evidence adduced pursuant to (a) above, JGM's construction and three month operating costs;

(c) The availability of financial resources—beyond the $1,935,000 bank loan—to meet the applicant's construction and three month operating costs;

(d) Whether, in light of the evidence adduced pursuant to (a)–(c) above, the applicant is financially qualified;

(e) Whether, with respect to its general public survey, the applicant has complied with the provisions of Question and Answer 15 of the *Primer*;

(f) Whether, in light of the evidence adduced pursuant to (e) above, the applicant is qualified.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

17. It is further ordered, That, in the event of a grant of Holt-Robinson's application, the construction permit shall contain the following conditions:

Prior to construction of the TV tower authorized herein, permittee shall notify AM stations WCVC and WKQE so that they may determine operating power by the indirect method. Permittee shall be responsible for the installation and continued maintenance of detuning apparatus necessary to prevent adverse effects upon the radiation patterns of the aforementioned AM stations. Subsequent to construction of the TV tower and installation of all apurtenances thereon, antenna impedance measurements of the AM antennas and sufficent field strength measurements obtained at at least 10 locations along each of eight equally spaced radials shall be made to establish that the AM radiation patterns are essentially omnidirectional, and the results of such measurements shall be submitted to the Commission in applications for the AM stations to return to the direct method of power determination. Thereafter, the TV station may commence *Limited Program Tests*.

18. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

19. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 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 Section 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Acting Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 81-17912 Filed 6-19-81; 8:45 am]

BILLING CODE 6712-01-M

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Cut-Off Date: July 15, 1981.

Released: June 4, 1981.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after July 15, 1981. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on July 15, 1981, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., no later than the close of business on July 15, 1981.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on July 15, 1981.

Applications for new stations may not be filed against any application on the attached list which is designated by an asterisk (*).

Federal Communications Commission.

William J. Tricarico,

Secretary.

UHF Low Power TV Applications

BPTTL-801202IH (new), Anchorage, Alaska, Bobbi Suga Grimm & Communicators of America, Inc., d/b/a Communicators of Anchorage. Req: Channel 57, 728-743 MHz, 1000 watts

BPTTL-810107IQ (new), Anchorage, Alaska, Summit Communications, Inc. Req: Channel 14, 470-476 MHz, 1000 watts

BPTTL-801118IP (new), Anchorage, Alaska, Graphic Scanning Corporation. Req: Channel 55, 716-722 MHz, 1000 watts

BPTTL-810122IY (new), Anchorage, Alaska, North American Television Network. Req: Channel 22, 518-524 MHz, 1000 watts

BPTTL-810217MI (new), Anchorage, Alaska, H. Frank Dominquez, et. al. Req: Channel 49, 680-686 MHz, 1000 watts

BPTTL-810303FX (new), Healy, Alaska, State of Alaska. Req: Channel 58, 734-740 MHz, 10 watts

BPTTL-810303FY (new), Nenana, Alaska, State of Alaska. Req: Channel 55, 716-722 MHz, 10 watts

BPTTL-810303GD (new), Kenai, Soldotna, Alaska, State of Alaska. Req: Channel 69, 800-806 MHz, 10 watts

BPTTL-810313JQ (new), Seward, Alaska, Visual Entertainment Unlimited, Roxie Jackson (Sole Proprietor). Req: Channel 17, 488-494 MHz, 100 watts

BPTTL-810324IC (new), Seward, Alaska, State of Alaska. Req: Channel 55, 716-722 MHz, 10 watts

BPTTL-810409KA (new), Anchorage, Alaska, Alaska Public Television, Inc. Req: Channel 38, 614-620 MHz, 100 watts

UHF TV Translator Applications

BPTT-801219IB (new), Talkeetna, Alaska, Alaska Public Television, Inc. Req: Channel 47, 674-680 MHz, 10 watts. Primary: KAKM-TV, Channel 7, Anchorage, Alaska

BPTT-810203IS (new), Eagle River Road, Alaska, State of Alaska. Req: Channel 61, 752-758 MHz, 10 watts. Primary KIMO-TV, Channel 13, Anchorage, Alaska

BPTT-810203IT (new), Eagle River Road, Alaska, State of Alaska. Req: Channel 58, 734-740 MHz, 10 watts. Primary KTVA-TV, Channel 11, Anchorage, Alaska

BPTT-810203IU (new), Eagle River Road, Alaska, State of Alaska. Req: Channel 55, 716-722 MHz, 10 watts. Primary: KENI-TV, KAKM-TV, Anchorage, Alaska

BPTT-810330AW (new), Sutton, Alaska, Alaska Public Television, Inc. Req: Channel 49, 680-686 MHz, 10 watts. Primary: KAKM-TV, Anchorage, Alaska

VHF Low Power TV Applications

BPTVL-810210IC (new), Fairbanks, Alaska, Mr. David Eugene Brown. Req: Channel 7, 174-180 MHz, 100 watts

BPTVL-810303EA (new), Selawik, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303EB (new), Port Lions, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts

BPTVL-810303EC (new), Tenakee Springs, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts

BPTVL-810303ED (New), Kobuk, Alaska, State of Alaska. Req: Channel 2, 54-60 MHz, 10 watts

BPTVL-810303EE (New), Anaktuvuk Pass, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303EF (New), Aniak, Alaska, State of Alaska. Req: Channel 2, 54-60 MHz, 10 watts

BPTVL-810303EG (New), Pelican, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303EH (New), Deering, Alaska, State of Alaska. Req: Channel 9, 186-192 Mhz, 10 watts

BPTVL-810303EI (New), Skagway, Alaska, State of Alaska. Req: Channel 11, 198-204 MHz, 10 watts

BPTVL-810303EJ (New), Teller, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303EK (New), Fort Yukon, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts

BPTVL-810303EL (New), Goodnews Bay, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts

BPTVL-810303EM (New), Cordova, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts

BPTVL-810303EN (New), Delta Junction, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts

BPTVL-810303EO (New), Akutan, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303EP (New), Chevak, Alaska, State of Alaska. Req: Channel 2, 54-60 MHz, 10 watts

BPTVL-810303EQ (New), Buckland, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303ER (New), Ambler, Alaska, State of Alaska. Req: Channel 11, 198-204 MHz, 10 watts

BPTVL-810303ES (New), Eagle Village, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303EU (New), St. George, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303EV (New), Telida, Alaska, State of Alaska. Req: Channel 13, 210-216 MHz, 10 watts

BPTVL-810303EW (New), Savoonga, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts

BPTVL-810303EY (New), Nuiqsut, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303EZ (New), Noorvik, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303FB (New), Nome, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts

BPTVL-810303FC (New), Noatak, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts

BPTVL-810303FD (New), Nilolski, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303FE (New), Kongiganak, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303FF (New), McGrath, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts

BPTVL-810303FG (New), Nulato, Alaska, State of Alaska. Req: Channel 2, 54-60 MHz, 10 watts

BPTVL-810303FH (New), Red Devil, Alaska, State of Alaska. Req: Channel 2, 54-60 MHz, 10 watts
BPTVL-810303FI (New), Kiana, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303FJ (New), Holy Cross, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810303FK (New), Shageluk, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303FL (New), Atka, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303FM (New), Mt. Village, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303FN (New), Anvik, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810303FO (New), Ruby, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303FP (New), Arctic Village, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303FQ (New), Elim, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303FR (New), Cold Bay, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303FS (New), Minto, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303FT (New), Unalakleet, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303FU (New), Togiak, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303FV (New), Tooksok Bay, Alaska, State of Alaska. Req: Channel 11, 198-204 MHz, 10 watts
BPTVL-810303FW (New), Marshall, Alaska, State of Alaska. Req: Channel 2, 54-60 MHz, 10 watts
BPTVL-810303FZ (New), Valdez, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303GA (New), Unalaska, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303GB (New), Craig, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303GC (New), Aleknagik, Alaska, State of Alaska. Req: Channel 13, 210-216 MHz, 10 watts
BPTVL-810303IG (New), Hughes, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303IH (New), Shisharef, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303II (New), False Pass, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303IJ (New), Haines, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810303IK (New), Kotzebue, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303IL (New), Nondalton, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303IM (New), Stebbins, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303IN (New), Petersburg, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303IO (New), Egegik, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303IP (New), Copper Center, Alaska, State of Alaska. Req: Channel 12, 204-210 MHz, 10 watts
BPTVL-810303IQ (New), Rampart, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303IR (New), Koyuk, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303IS (New), St. Mary's Alaska, State of Alaska. Req: Channel 11, 198-204 MHz, 10 watts
BPTVL-810303IT (New), Emmonak, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303IU (New), Pt. Hope, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303IV (New), Gambell, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303IW (New), King Salmon, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303IX (New), Golovin, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810303IY (New), Grayling, Alaska, State of Alaska. Req: Channel 11, 198-204 MHz, 10 watts
BPTVL-810303IZ (New), King Cove, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JA (New), Huslia, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JB (New), Dillingham, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303JC (New), Tok, Tanacross & Tetlin, Alaska, State of Alaska. Req: Channel 13, 210-216 MHz, 10 watts
BPTVL-810303JE (New), Karluk, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JG (New), Ouzinkie, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810303JH (New), Wainwright, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JJ (New), Old Harbor, Alaska, State of Alaska. Req: Channel 13, 210-213 MHz, 10 watts
BPTVL-810303JK (New), Kivalina, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JL (New), Kaktovik, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JM (New), Larsen Bay, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JN (New), Barrow, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303JO (New), Angoon, Alaska State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JP (New), Shaktoolik, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810303JQ (New), Northway, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303JR (New), Klukwan, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303JS (New), Kodiak, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303JT (New), Iliamna, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts
BPTVL-810303JU (New), Bethel, Alaska, State of Alaska. Req: Channel 2, 54-60 MHz, 10 watts
BPTVL-810303JV (New), Beaver, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JW (New), Kake, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JX (New), Nelson Lagoon, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JY (New), New Stuyahok, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303JZ (New), Shungnak, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810303KA (New), Tanana, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810303KB (New), Sand Point, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303KC (New), St. Paul, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810303KD (New), St. Michaels, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810324IA (New), Koliganek, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810324IB (New), Mentasta Lake, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810324ID (New), Hydaburg, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810324IE (New), Tyonek, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810324IF (New), Hoonah, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTVL-810324IG (New), Chalkyitsik, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810324IH (New), Allakaket/Atlanta, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts
BPTVL-810324II (New), Chistochina, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts

BPTVL-810324IJ (New), Dot Lake, Alaska, State of Alaska. Req: Channel 13, 210-216 MHz, 10 watts
BPTVL-810324JB (New), Sitka, Alaska, State of Alaska. Req: Channel 3, 60-66 MHz, 10 watts
BPTVL-810409JH (New), Dillingham, Alaska, State of Alaska. Req: Channel 7, 174-180 MHz, 10 watts
BPTTV-800729ID (K04IJ), Kenai & Sterling, Alaska, State of Alaska. Req: Change frequency to Channel 3, 60-66 MHZ, add Soldotna, Alaska to present principal community
BPTTV-801020ID (New), Slana, Alaska, State of Alaska. Req: Channel 4, 66-72 MHz, 10 watts. Primary: KTVA-TV, KENI-TV, KIMO-TV, KAKM-TV, Anchorage, Alaska, KTOO-TV, Juneau, Alaska, KYUK-TV, Bethel, Alaska, KUAC-TV, Fairbanks, Alaska
BPTTV-810123JI (New), Moose Pass, Alaska, Moose Pass Sportsman's Club. Req: Channel 4, 66-72 MHz, 10 watts. Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KIMO-TV, KTVA-TV, KENI-TV, Anchorage, Alaska
BPTTV-810123JK (New), Moose Pass, Alaska, Moose Pass Sportsman's Club. Req: Channel 7, 174-180 MHz, 10 watts. Primary: KENI-TV, Anchorage, Alaska
BPTTV-810123JL (New), Moose Pass, Alaska, Moose Pass Sportsman's Club. Req: Channel 11, 198-204 MHz, 10 watts. Primary: WGN-TV, Chicago, Illinois
BPTTV-810123JN (New), Lemon and Switzer Creek basins and East Twin Lakes areas of Juneau, Alaska, Capital Community Broadcasting, Inc. Req: Channel 10, 192-198 MHz, 10 watts. Primary: KTOO-TV, Juneau, Alaska
BPTTV-810203IV (New), Koyuk, Alaska, Koyuk Village Council. Req: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KAKM-TV, KINMO-TV, KTVA-TV, KENI-TV, Anchorage, Alaska
BPTTV-810220II (New), Glenn Allen, Alaska, Wrangle Mountain TV Club, Inc. Req: Channel 7, 174-180 MHZ, 10 watts. Primary: WGN-TV, Chicago, Illinois
BPTTV-810331S2 (New), Unalaska/Dutch Harbor, Alaska, Unalaska City School District. Req: Channel 2, 54-60 MHz, 10 watts. Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KAKM, KENI, KTVA, KIMO-TV, Anchorage, KTOO-TV, Juneau, Alaska
BPTTV-810123JJ (New), Moose Pass, Alaska, Moose Pass Sportsman's Club. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KENI-TV, KIMO-TV, KTVA-TV, Anchorage, Alaska
BPTTV-801209IF (New), Port Graham, Alaska, State of Alaska. Req: Channel 9, 186-192 MHz, 10 watts. Primary: KTVA-TV, KIMO-TV, KAKM-TV, Anchorage, Alaska, KTOO-TV, Juneau, KYUK-TV, Bethel, KUAC-TV, Fairbanks, Alaska
BPTTV-801024ID (New), St. Mary's, Alaska, City of Saint Mary's Req: Channel 7, 174-180 MHz, 10 watts. Primary: KUAC-TV, Fairbanks, KYUK-TV, Bethel, KTOO-TV, Juneau, KAKM-TV, KIMO-TV, KTVA-TV, KENI-TV, Anchorage, Alaska

VHF Low Power TV Applications

BPTVL-810317IB (New), Sutton, Alaska, Central Alaska Broadcasting, Inc. Req: channel 5, 76-82 MHz, 10 watts. Primary: KIMO-TV, Anchorage, Alaska

[FR Doc. 81-17718 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-19]

AM Broadcast Applications Accepted for Filing and Notification of Cut-off Date

Released: June 12, 1981.

Cut-off Date: July 19, 1981.

Notice is hereby given that the following applications have been accepted for filing. Because they are in conflict with applications previously accepted for filing and subject to cut-off dates for conflicting applications, no application which would be in conflict with them will be accepted for filing.

Petitions to deny these applications must be on file with the Commission not later than the close of business on July 10, 1981.

Minor amendments to these applications and to those they are in conflict with, may be filed as a matter of right not later than the close of business on July 10, 1981.

BP-810511AJ (new), Carrollton, Texas, Latin American Broadcasting Co., Req: 770 kHz, 2.5 kW, 5 kW-LS, DA-2, U
BP-810511AL (new), Plano, Texas, Bluebonnet Radio Broadcasters, Inc., Req: 770 kHz, 1 kW, 10 kW-LS, DA-2, U
BP-810511AM (new), Garland, Texas, Century Broadcasting Corp., Req: 770 kHz, 1 kW, 10 kW-LS, DA-2, U
BP-810511AO (new), Plano, Texas, Plano Broadcasting Corporation, Req: 770 kHz, 1 kW, 5 kW-LS, DA-2, U
BP-810511AP (KPBC), Garland, Texas, Dontron, Inc., Has: 1040 kHz, 1 kW, D, Req: 770 kHz, 1 kW, 5 kW-LS, DA-2, U
BP-810511AQ (new), San Antonio, Texas, Inner City Broadcasting of San Antonio, Inc., Req: 760 kHz, 1 kW, 50 kW-LS, DA-N, U

William J. Tricarico,

Secretary.

[FR Doc. 81-18033 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1292]

Petitions for Reconsideration of Actions in Rule Making Proceedings

June 12, 1981.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed on or before July 2, 1981. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: An inquiry into the Future Role of Low Power Television Broadcasting and Television Translators in the National Telecommunications System. (BC Docket No. 78-253).
Filed by: James F. Flug & Mark Hessell, Attorneys for International Union, UAW on 6-10-81.
Subject: Revision of Applications for Renewal of License of Commercial and Noncommercial AM, FM, and Television Licensees. (BC Docket No. 80-253, RM-2898).
Filed by: Henry Geller on 6-10-81.
Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (St. Johnsbury, Vermont) (BC Docket No. 80-667), RM-3354).
Filed by: John P. Bankson, Jr. & Brian C. Murchison, Attorneys for North Country Communications, Inc. (WNCS-FM) on 6-8-81.

William J Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 81-18034 Filed 6-16-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 81-11]

Availability of Finding of No Significant Impact

In the matter of "50 mile Container Rules" implementation by common carriers by water serving the Atlantic and Gulf Coast ports of the United States—possible violations of the Shipping Act, 1916, and of the Intercoastal Shipping Act, 1933.

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Docket No. 81-11 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that preparation of an environmental impact statement is not required. The Commission instituted this investigation to determine whether or not the involved carriers serving the Atlantic and Gulf Coast ports have violated the Shipping Act, 1916, and the Intercoastal Shipping Act, 1933.

This Finding of No Significant Impact (FONSI) will become final within 20

days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Joseph C. Polking,

Acting Secretary.

[FR Doc. 81-17913 Filed 6-16-81; 8:45 am]

BILLING CODE 6730-01-M

Hawaiian Marine Lines, Inc.; Application for Permission To Submit Alternative Data

The Federal Maritime Commission hereby gives notice that Hawaiian Marine Lines, Inc. (HML) has filed an application with the Commission for permission to submit alternative data pursuant to 46 CFR 512.2(d).

In support of general rate changes, carriers are required by the Commission's General Order 11, Revised, to submit actual financial data for a twelve-month period commencing not more than fourteen months prior to the filing date. If the filing is within 150 days of the end of its fiscal year, this requirement may be satisfied by the submission of the carrier's General Order 11, Revised, report for its fiscal year. HML operates on a fiscal year ending December 31, and proposes to file a general rate change on or before June 30, 1981. Although more than 150 days will have expired between December 31, 1980, and June 30, 1981, HML proposes to use its fiscal year 1980 General Order 11, Revised, submission as the actual twelve months financial and operating data in support of its general rate increases.

Interested parties may inspect the data submitted in support of the application at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. Interested parties may submit comments on the application to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before [20 days). A copy of any comments should also be forwarded to Hawaiian Marine Lines, Inc., Crowley Maritime Plaza, P.O. Box 2287, Seattle, Washington 98111, and the comments should indicate that this has been done.

Joseph C. Polking,

Acting Secretary.

Dated: June 11, 1981.

[FR Doc. 81-17907 Filed 6-16-81; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1441]

Marshall Ashby Smith, Jr., d.b.a. Reliable Traffic Service; Notice Revising Order of Revocation

On June 2, 1981, an Order of Revocation was published in the **Federal Register** (46 FR 29538) revoking the independent ocean freight forwarder license issued to Marshall Ashby Smith, Jr., d/b/a Reliable Traffic Service. The reason stated in that Order was that the licensee had failed to furnish a replacement surety bond as required by section 44(c) of the Shipping Act, 1916.

It has now come to the Commission's attention that Marshall Ashby Smith, Jr. died on February 1, 1981 and that the license issued to Marshall Ashby Smith, Jr. d/b/a Reliable Traffic Service was surrendered for voluntary revocation.

Therefore, the Order of Revocation published in the **Federal Register** on June 2, 1981 is hereby amended to reflect that license no. 1441, issued to Marshall Ashby Smith, Jr., d/b/a Reliable Traffic Service, was surrendered for voluntary revocation in lieu of the reason stated above.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-17888 Filed 6-16-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Amerigroup Financial Corp.; Formation of Bank Holding Company

Amerigroup Financial Corporation, Houston, 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 Brookhollow National Bank, Houston, 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. 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 July 10, 1981. 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, June 11, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17942 Filed 6-16-81; 8:45 am]

BILLING CODE 6210-01-M

Century Holding Corp.; Acquisition of Bank

Century Holding Corporation, San Francisco, California, 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 Century Bank, Los Angeles, California. 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 San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than July 9, 1981. 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, June 10, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17943 Filed 6-16-81; 8:45 am]

BILLING CODE 6210-01-M

First Eastex Bancshares, Inc.; Formation of Bank Holding Company; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 81–15881) published at page 28745 of the issue for Thursday, May 28, 1981. Applicant's name was incorrectly listed as First Foster Bancshares, Inc.

First Eastex Bancshares, Inc., Buna, 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 100 percent of the voting shares, less directors' qualifying shares, of East Texas State Bank, Buna, 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. 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 June 20, 1981. 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, June 8, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17944 Filed 6-16-81; 8:45 am]

BILLING CODE 6210-01-M

El Paso National Corp.; Proposed Acquisition of North Coast Mortgage Co.

El Paso National Corporation, El Paso, Texas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of North Coast Mortgage Company, San Antonio, Texas.

Applicant states that the proposed subsidiary would engage in mortgage banking activities, including selling and servicing mortgages secured by residential or commercial income producing real estate. In addition, the proposed subsidiary will act as a collection agent for taxes and insurance premiums on mortgage properties. These activities would be performed from offices of Applicant's subsidiary in San Antonio, Beaumont, and Fort Worth, Texas, and the geographic areas to be served are Bexar County, Jefferson County, and El Paso County, Texas. 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 Dallas.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than July 9, 1981.

Board of Governors of the Federal Reserve System, June 10, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17945 Filed 6-16-81; 8:45 am]

BILLING CODE 6210-10-M

Kavanaugh Bancshares, Inc.; Formation of Bank Holding Company

Kavanaugh Bancshares, Inc., Walker, 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 100 percent of the voting shares of Farmers Bank of Walker, Walker, 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 Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 9, 1981. 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, June 10, 1981.

D. Michael Manies,

Assistant Secretary of the Board.

[FR Doc. 81-17946 Filed 6-16-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Federal Register

National Fire Codes; Request for Proposal for Revisions of Standards

AGENCY: Office of the Federal Register.

ACTION: Request for Proposals.

SUMMARY: The National Fire Protection Associations (NFPA) proposes to revise some of its fire safety standards. The Office of the Federal Register, as a public service, requests proposals from the public to amend existing NFPA fire safety standards. The purpose of this request is to increase public participation in the system used by the NFPA to develop its standards.

DATES: Interested persons may submit Proposals on or before the dates listed with the standards.

ADDRESS: Richard E. Stevens, Vice President, NFPA, Batterymarch Park, Quincy, Massachusetts 02269.

FOR FURTHER INFORMATION CONTACT: Richard E. Stevens, at above address, (617) 328-9290. **Federal Register** contact: Gary Segal (202) 523-4534.

SUPPLEMENTARY INFORMATION:

Background

The National Fire Protection Association (NFPA) develops fire safety standards which are known collectively as the National Fire Codes. Federal agencies frequently use these standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register (OFR) approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and CFR Part 51.

Request for Proposal

Interested persons may submit amendments, supported by written data, views, or arguments to Richard E. Stevens, Vice President, NFPA, Batterymarch Park, Quincy, Massachusetts 02269. Each person who submits a proposal must include his or her name and address, must identify the notice, and must give reasons for the proposal. The NFPA will consider any proposal that it receives on or before the date listed with the standard.

The NFPA will publish a copy of each written proposal that it receives and the disposition of each proposal by the NFPA Committee as the Technical Committee Report. The NFPA will send a copy of the Technical Committee Report to each person who submits a proposal.

The NFPA will make copies of the Technical Committee Report available for review at the Office of the Federal Register, 1100, L Street, N.W., Room 8401, Washington, DC.

Dated: June 11, 1981.

Martha Girard,

Acting Director, Office of the Federal Register.

The NFPA requests proposals from the public to amend the following standards:

Aviation	NFPA 402-1978, Aircraft Rescue and Fire Fighting Procedures	July 24, 1981
	NFPA 403, Aircraft Rescue and Fire Fighting Services	(open).
	NFPA 406M-1975, Aircraft Rescue and Fire Fighting Techniques	July 24, 1981.
	NFPA 409-1979, Aircraft Hangers	July 24, 1981.
	NFPA 415-1977, Aircraft Fueling Ramp Drainage	July 24, 1981.
	NFPA 416-1975, Construction and Protection of Airport Terminal Buildings	July 24, 1981.
	NFPA 417-1977, Construction and Protection of Aircraft Loading Walkways	July 24, 1981.
	NFPA 419-1975, Airport Water Supply Systems	(open).
	NFPA 422M, Aircraft Fire Investigators Manual	(open).
	NFPA 423-1977, Construction and Protection of Aircraft Engine Test Facilities	July 4, 1981.
Boiler-Furnace Explosions	NFPA 85B-1978, Prevention of Furnace Explosions in Natural Gas-Fired Multiple Burner Boiler-Furnaces	(open).
	NFPA 85D-1978, Prevention of Furnace Explosions in Fuel Oil-Fired Multiple Burner Boiler-Furnaces	(open).
	NFPA 85E-1980, Prevention of Furnace Explosions in Pulverized Coal-Fired Multiple Burner Boiler-Furnaces	(open).
Chemicals and Explosives	NFPA 493-1978, Intrinsically Safe Process Control Equipment	July 24, 1981.
	Proposed NFPA 497M-1982, Group Classification of Flammable and Combustible Vapors and Combustible Dusts	August 24, 1981.
Chimneys and Heating Equipment	NFPA 82-1977, Incinerators, Waste and Linen Handling Systems and Equipment	July 24, 1981.
	NFPA 89M-1976, Clearances for Heat Producing Appliances	July 24, 1981.
	NFPA 96-1980, Removal of Smoke and Grease Laden-Vapors from Commerical Cooking Equipment	(open).
Cutting and Welding Practices	NFPA 51B-1977, Use of Cutting and Welding Practices	July 24, 1981.
Dry Chemical Extinguishing Systems	NFPA 17-1980, Dry Chemical Extinguishing Systems	(open).
Dust Explosion Hazards	NFPA 65-1980, Processing and Finishing of Aluminum	(open).
	NFPA 651-1980, Manufacture of Aluminum or Magnesium Powder	(open).
Explosion Protection Systems	NFPA 68-1978, Explosion Venting	July 24, 1981.
	NFPA 69-1978, Explosion Prevention Systems	July 24, 1981.
Fire Department Equipment	Proposed NFPA 1903-1982, Testing Fire Department Pumpers	July 24, 1981.
Fire Department Organization	NFPA 1201-1977, Organization for Fire Services	June 1, 1981.
Fire Protection for Non-Nuclear Power Generating Plants	Proposed NFPA 850-1983, Gas, Oil and Coal-Fired Steam Electric Generating Plants	Sept. 1, 1981.
Fire Service Training	NFPA 13E-1978, Fire Department Operations in Properties Protected by Spinkler and Standpipe Systems	July 1, 1981.
Fire Tests	NFPA 701-1977, Methods of Fire Tests for Flame-Resistants Textiles and Films	July 24, 1981.
Firesafety Symbols	Proposed NFPA 173-1982, Fire Protection Symbols for Graphic Displays	(open).
Flammable Liquids	NFPA 31-1978, Oil Burning Equipment	July 24, 1981.
	NFPA 325M-1977, Fire Hazard Properties of Flammable Liquids, Gases and Volatile Solids	July 24, 1981.
	NFPA 329-1977, Underground Leakage of Flammable and Combustible Liquids	July 24, 1981.
Foam	NFPA 11A-1978, High Expansion Form Systems	July 24, 1981.
Health Care Facilities	NFPA 76A-1977, Essential Electrical Systems for Health Care Facilities	July 24, 1981.
Height and Areas	NFPA 206M-1976, Building Areas and Heights	July 24, 1981.
Industrial and Medical Gases	NFPA 50-1979, Bulk Oxygen Storage at Consumer Sites	Feb. 15, 1982.
	NFPA 51A-1979, Acetylene Cylinder Charging Plants	Feb.15, 1982.
Lightning Protection	NFPA 78-1980, Lightning Protection Code	Jan. 22, 1982.
Liquefied Petroleum Gases	NFPA 58-1979, Liquefied Petroleum Gases	July 24, 1981.
	NFPA 59-1979, Liquefied Petroleum Gases at Utility Gas Plants	July 24, 1981.
Mining Facilities	NFPA 120 (Existing NFPA 653-1971), Coal Preparation Plants	July 24, 1981.
	Proposed NFPA 122-1981, Flammable and Combustible Liquids Within Underground Mines Other Than Coal	July 24, 1981.
	Proposed NFPA 123-1982, Underground Coal Mines	July 24, 1981.
National Electrical Code	NFPA 70-1981, National Electrical Code	Nov. 30, 1981
Ovens and Furnaces	NFPA 86C-1977, Industrial Furnaces Using a Special Processing Atmosphere	July 24, 1982.
Pest Control Operations	NFPA 57, Fumigation	(open).
Protective Equipment for Fire Fighters	Proposed NFPA 1973-1982, Protective Gloves for Fire Fighters	July 24, 1981.
	Proposed NFPA 1974-1982, Protective Boots for Fire Fighters	July 24, 1981.
	Proposed NFPA 1982-1982, Personal Alert Safety Systems	July 24, 1981.
Public Fire Protection Evaluation and Criteria	Proposed NFPA 1301-1982, Evaluation of Regulations, Enforcement and Public Education	July 24, 1981.
Safety to Life	NFPA 101-1981, Life Safety Code	Jan. 15, 1982
Signaling Systems	Proposed NFPA 72F-1982, Emergency Communication Systems for High Rise and Other Occupied Buildings	July 24, 1981.
	Proposed NFPA 72G-1982, Audible and Visual Signaling Appliances for Protective Signaling Systems	July 24, 1981.
Static Electricity	NFPA 77-1977, Static Electricity	July 24, 1981.
Storage	NFPA 231-1979, Indoor General Storage	July 24, 1981.
	NFPA 231A-1975, Outdoor General Storage	July 24, 1981.
	Proposed NFPA 231E-1982, Storage of Baled Cotton	July 24, 1981.
	Proposed NFPA 231F-1982, Storage of Rolled Paper	July 24, 1981.
Water Cooling Towers	NFPA 214-1977, Water Cooling Towers	July 24, 1981.
Water Extinguishing Systems	NFPA 13-1980, Installation of Sprinker Systems	August 14, 1981.
	NFPA 13D-1980, Installation Systems in One- and Two-Family Dwellings and Mobile Homes	Aug. 14, 1981.
	NFPA 14-1980, Installation of Standpipe and Hose Systems	(open).
	NFPA 26-1976, Supervision of Valves Controlling Water Supplies for Fire Protection	July 24, 1981.
	NFPA 291-1977, Uniform Marking of Hydrants	July 24, 1981.

[FR Doc. 81-17865 Filed 6-16-81; 8:45 am]
BILLING CODE 1505-02-M

National Fire Codes; Request for Comments on NFPA Technical Committee Reports

AGENCY: Office of the Federal Register.

ACTION: Request for comments.

SUMMARY: The National Fire Protection Association (NFPA) revises existing standards and adopts new standards twice a year. At the NFPA's fall meeting in November, or at the annual meeting in May, the NFPA acts on recommendations made by its technical committees.

The Office of the Federal Register, as a public service, requests comments on the technical reports which will be presented at the 1982 Annual Meeting.

DATES: Technical committee reports will be available for distribution August 28, 1981. Comments received on or before November 13, 1981 will be considered by the NFPA before final action is taken on the proposals.

ADDRESS: 1982 Annual Technical Committee Reports are available from NFPA, Publications Department, Batterymarch Park, Quincy, Massachusetts 02269. (no charge for single copies.) Comments on the reports should be submitted to Vice President Richard E. Stevens, NFPA, Batterymarch Park, Quincy, Massachusetts 02269.

FOR FURTHER INFORMATION CONTACT: Richard E. Stevens, at above address, (617) 328–9290. Federal Register contact, Gary Segal (202) 523–4534.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by the technical committees of the National Fire Protection Association (NFPA) have been used by various Federal agencies as the basis for Federal regulations concerning fire safety. The NFPA standards are known collectively as the National Fire Code. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Revisions of existing standards and adoption of new standards are reported by the technical committees at the NFPA's Fall Meeting in November or at the Annual Meeting in May of each year. The NFPA invites public comment on its Technical Committee Reports.

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Vice President Richard E. Stevens, NFPA, Batterymarch Park, Quincy, Massachusetts 02269. Commentors may use the forms provided for comments in the Technical Committee Reports. Each person submitting a comment should include his name and address, identify the notice, and give reasons for any recommendations. Comments received on or before November 13, 1981 will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the Technical Committee Documentation by March 29, 1982, prior to the Annual Meeting.

A copy of the Technical Committee Documentation will be sent automatically to each commentor. Action on the Technical Committee Reports (adoption or rejection) will be taken at the Annual Meeting, May 17–20, 1982, at the San Francisco Hilton, Brooks Hall Convention Center, San Francisco, California, by NFPA members.

Copies of the Technical Committee Reports and Technical Committee Documentation, when published, will also be available for review at the Office of the Federal Register, 1100 L Street, N.W., Washington, D.C.

Dated: June 11, 1981.

Martha Ginard,

Acting Director, Office of the Federal Register.

Action at the NFPA Annual Meeting in May 1982 is being proposed on the NFPA standards listed below:

Technical Committee Reports

1982 Annual Meeting

Committee	Document	Action
Boiler-Furnace Explosions	NFPA 85, Prevention of Furnace Explosions in Fuel Oil- & Natural Gas-Fired Single Burner Boiler-Furnaces (to be renumbered NFPA 85A).	O-C.
	NFPA 85F, Installation & Operation of Pulverized Fuel Systems	O-P.
	NFPA 85G, Prevention of Furnace Implosions in Multiple Burner Boiler-Furnaces	O-P.
Building Construction:		
Building Construction	NFPA 204, Smoke & Heat Venting	O-C.
Chemicals & Explosives:		
Explosives	NFPA 492, Separation Distances of Ammonium Nitrate & Blasting Agents from Explosives or Blasting Agents	W.
	NFPA 495, Manufacture, Transportation, Storage, & Use of Explosive Materials	O-C.
	NFPA 498, Explosives Motor Vehicle Terminals	O-C.
Storage, Handling & Transportation of Hazardous Chemicals	NFPA 40, Storage & Handling of Cellulose Nitrate Motion Picture Film	O-C.
Combustible Metals	NFPA 482M, Zirconium	O-C.
Fire Prevention Code	NFPA 1, Fire Prevention Code	O-C.
Fire Service Professional Standards Development for Fire Inspector & Investigator Qualifications.	NFPA 1031, Professional Qualifications for Fire Inspector, Fire Investigator, & Fire Prevention Education Officer	O-P.
	NFPA 1002, Fire Apparatus Driver/Operator Professional Qualifications	R.
Firesafety for Mobile Homes	NFPA 501A, Mobile Home Parks	O-C.
Firesafety for Recreational Vehicles	NFPA 501C, Recreational Vehicles	O-C.
	NFPA 501D, Recreational Vehicle Parks	O-C.
Fixed Guideway Transit Systems	NFPA 130, Fixed Guideway Transit Systems	N-O.
Ovens & Furnaces	NFPA 86A, Ovens & Furnaces—Design, Location & Equipment	O-P.
	NFPA 86B, Industrial Furnaces—Design, Location & Equipment	O-C.
Signaling Systems:		
Central Station Signaling Systems	NFPA 71, Installation, Maintenance & Use of Central Station Signaling Systems	O-P.
Detection Devices	NFPA 72E, Automatic Fire Detectors	O-P
Water Extinguishing Systems:		
Fire Pumps	NFPA 20, Installation of Centrifugal Fire Pumps	O-P.
	NFPA 21, Operation & Maintenance of National Stsndard Steam Fire Pumps	R.
Water Spray Fixed Systems	NFPA 15, Water Spray Fixed Systems for Fire Protection	O-P.

Types of Action

Proposed Action on Official Documents: O–P Partial Amendments; O–C Complete Revision; O–T Tentative Revisions.
Proposed Action on New Documents; N–T Tentative Adoption; N–O Official Adoption.
Proposed Action on Tentative Documents: T–P Partial Amendments; T–C Complete Revision; T–O Official Adoption.
Other Proposed Action: R Reconfirmation; W Withdrawal.

[FR Doc. 81-17886 Filed 6-16-81; 8:45 am]

BILLING CODE 1505-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service, Health Services Administration, Health Resources Administration

Health Professions and Nursing Student Loans; "Low Income Levels" for Loan Repayment, Start-Up Assistance Grants, Health Careers Opportunity Grants, Nursing Capitation Grants and Nursing Special Project Grants

This Notice updates the income levels that are used to define a "low income family" for purposes of repayment of educational loans and for the support of training for individuals from disadvantaged backgrounds as provided for under sections 787 and 798, Health Careers Opportunity Grants; section 788(a), Start-Up Assistance Grants; section 810, Nursing Capitation Grants; and section 820, Nursing Special Project Grants of the Public Health Service Act.

Under sections 741(l) and 836(j) and the applicable program regulations, the Secretary of Health and Human Services may repay all or part of an individual's educational loan made after November 17, 1971, to meet the costs of attending a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, or nursing if the Secretary determines that the individual meets all of the following:

(1) Failed, after November 17, 1971, to complete the health professions studies leading to the individual's first professional degree or to complete the specified nursing studies for which the loan(s) was made;

(2) Is in exceptionally needy circumstances;

(3) Is from a low income or disadvantaged family; and

(4) Has not resumed or cannot reasonably be expected to resume the course of study within two years following the date the individual ended the studies.

Sections 57.214(c) and 57.317(c) of the applicable program regulations (42 CFR Part 57, Subparts C and D) require the Secretary to publish annually in the **Federal Register** the low income levels which will be used in determining an applicant's eligibility for this repayment program. Aside from their use in determining whether an individual comes from a "low income family," these income levels, together with other relevant factors such as value of assets, unusual expenses, income available to the individual, etc., are also considered in determining whether an individual is "in exceptionally needy circumstances" or is from a "disadvantaged family."

The income figures below were taken from low income levels, published by the U.S. Bureau of Census, using an index adopted by a Federal Interagency Committee for use in a variety of Federal Programs, then multiplied by a factor of 1.3 for adaptation to the Health Professions and Nursing Student Loan Programs and other designated grant programs for which training for individuals from disadvantaged backgrounds is supported. The income figures have been updated to reflect increases in the Consumer Price Index through December 31, 1980.

Size of parents' family[1]	Income level[2]
1	$5,600
2	7,200
3	8,600
4	11,000
5	12,900
6 or more	14,500

[1] Includes only dependents listed on Federal income tax forms.
[2] Rounded to $100. Adjusted gross income for calendar year 1980.

Dated: June 2, 1981.

John H. Kelso,

Acting Administrator, Health Services Administration.

Dated: June 5, 1981.

Robert Graham, M.D.,

Acting Administrator, Health Resources Administration.

[FR Doc. 81-17949 Filed 6-16-81; 8:45 am]

BILLING CODE 4110-84-M

Health Maintenance Organizations

AGENCY: Public Health Service, HHS.

ACTION: Notice, April—qualified health maintenance organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and dates of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, service area revisions of three previously qualified HMOs are reported at the end of the list.

FOR FURTHER INFORMATION CONTACT: Frank H. Seubold, Ph. D., Acting Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the **Federal Register.** The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)):

Qualified Health Maintenance Organizations

Name, Address, Service Area, and Date of Qualification

(Preoperational Qualified Health Maintenance Organization: 42 CFR § 110.603(c))

1. Prudential Health Care Plan, Inc., (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 1000 Circle 75 Parkway, Suite 640, Atlanta, Georgia 30339. (A regional component of Prudential Health Care Plan, Houston, Texas 77001—see 45 FR 13899-900). Service area: Cobb, Fulton, DeKalb, and Gwinnett Counties, Georgia. Date of qualification: April 1, 1981.

(Operational Qualified Health Maintenance Organization: 42 CFR § 110.603(a))

1. Intergroup Prepaid Health Services, Inc., (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), CNA Plaza, Chicago, Illinois 60685. Service area: Illinois—Counties of Champaign, Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodford. Indiana—Counties of Adams, Allen, Blackford, DeKalb, Delaware, Grant, Huntington, Jay, Lake, Madison, Miami, Noble, Porter, Randolph, Wabash, Wells, and Whitley. Date of qualification: April 18, 1980. (Achieved transitional qualification on April 18, 1977).

(Transitional Qualified Health Maintenance Organization: 42 CFR § 110.603(b))

1. Compcare Health Services, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 2315 North Lake Drive, Suite 819, Milwaukee, Wisconsin 53211. Service area: Zip codes in the following counties:

Milwaukee

53110, 53129-30, 53132, 53154, 53172, 53193, and 53202-28

Ozaukee

*53012, 53024, and 53092

* Partial coverage.

Washington

*53012, *53017, 53022, *53033, *53037, *53076, and *53086.

Waukesha

53005, 53007, 53029, 53051, *53072, 53122, *53130, 53150–1, and *53186

Date of qualification: April 30, 1981.

Service Area Revisions

1. HMO Illinois, Inc., 233 North Michigan Avenue, Suite 1323, Chicago, Illinois 60601. Service area: Delete the following from the service area published on 3/3/80 in the **Federal Register**, 45 FR 13896: Fulton, Peoria, Tazewell and Woodford Counties, Illinois. Effective date: April 1, 1981.

2. Lifeguard, Inc., 1715 South Bascom Avenue, Bascom Financial Center, Campbell, California 95008. Service area: Add the following municipalities and zip codes to the service area published on 3/3/80, in the **Federal Register**, 45 FR 13898:

Fremont-Southern Alameda County

Fremont: 94536–8; Newark: 94560; Union City: 94587; and Sunol: 94586

San Lorenzo: 94580; San Leandro: 94577–9; Pleasanton: 94566; and Dublin: 94566

Castro Valley: 94546; Hayward: 94541–6

Effective date: April 16, 1981.

3. Av-Med Health Plan, Inc., 9400 South Dadeland Boulevard, Miami, Florida 33156. Service area: Add the following to the service area published on 3/3/80, in the **Federal Register**, 45 FR 13894: Broward County, Florida. Effective date: April 24, 1981.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m. on Tuesdays and Thursdays, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health and Human Services, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857.

Questions about the qualification review process or requests for information about qualified HMOs should be sent to the same office.

Dated: June 10, 1981.

Frank H. Seubold,

Acting Director, Office of Health Maintenance Organizations.

[FR Doc. 81-17900 Filed 6-16-81; 8:45 am]

BILLING CODE 4110-85-M

Office of the Assistant Secretary for Health
Public Health Service

National Center for Health Care Technology; Evaluation of Medical Technology

The National Center for Health Care Technology (Center) announces that it is conducting an evaluation of what is known of the safety and clinical effectiveness of apheresis for the treatment of (1) Goodpasture's syndrome; (2) systemic lupus erythematosis; (3) membranous and proliferative glomerulonephritides; (4) multiple sclerosis; (5) potentially life-threatening complications of rheumatic diseases (rheumatoid arthritis, systemic lupus erythematosis, polymyositis/dermatomyositis, and progressive systemic sclerosis; and, (6) thrombotic thrombocytopenic purpura (TTP).

Based on this evaluation, a recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide the Center with information relevant to this evaluation should do so in writing no later than September 15, 1981. To enable the Center's staff to give appropriate consideration to any literature references or analyses of clinical data, a written summary no longer than 10 pages should be attached to any such material submitted.

Written material should be submitted to: Division of Medical and Scientific Evaluation, National Center for Health Care Technology, Room 17A29, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

For further information contact: Stephen P. Heyse, M.D., M.P.H., Health Science Analyst, at the above address or by telephone (301) 443–4990.

Dated: June 10, 1981.

Wayne C. Richey, Jr.,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 81-17967 Filed 6-16-81; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Amoco Production Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0578, Block 215, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 8, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-17890 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that ARCO Oil and Gas Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3980, Block 104, portion, Vermilion Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geoligical Survey, 3301 North Causeway

Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

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Dated: June 8, 1981.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-17891 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Indian Affairs

Port Gamble Reservation, Wash.; Ordinance Regulating the Use, Possession, Sale and Distribution of Liquor

June 5, 1981.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 18 U.S.C. 1161 (1976). I certify that the following Resolution and Ordinance relating to the application of the Federal Indian Liquor Laws on the Port Gamble Indian Reservation, Washington, were adopted on November 19, 1980, by the Port Gamble Klallam Business Committee of the Port Gamble Indian Reservation which has jurisdiction over the area of Indian country included in this Ordinance, reading as set forth below.

Roy H. Sampsel,

Acting Deputy Assistant Secretary—Indian Affairs.

Resolution No. 80-A52

I

Whereas, the Port Gamble Indian Community is organized under the Indian Reorganization Act of June 18, 1934; and

II

Whereas, under its Constitution and Bylaws adopted August 5, 1939, the Community Council was designated as the governing body of the Port Gamble Indian Community; and

III

Whereas, by resolution dated April 22, 1956, the Port Gamble Klallam Community Council delegated the authority to conduct the business of the Port Gamble Klallam Indian Community to the Port Gamble Klallam Business Committee; and

IV

Whereas, 18 U.S.C. 1161 recognizes the authority of the Business Council to regulate transactions involving liquor in Indian country; and

V

Whereas, the regulation of liquor on the Port Gamble Klallam reservation by the Port Gamble Klallam Tribe will provide employment for Native Americans in this community, generate funds for Tribal government purposes, and eliminate past unregulated practices,

VI

Now Therefore Be It Resolved, that the following Liquor Control Ordinance is hereby adopted:

Certification

We Hereby Certify that on this date there was a regular meeting held of the Port Gamble Klallam Business Committee on the Port Gamble Klallam Indian Reservation, at which time a quorum was present:

We Further Certify, that the above numbered resolution was, at said meeting, introduced, evaluated, and was passed by a vote of 4 for and 0 against.

Dated this 19th day of November, 1980.

Ronald G. Charles,

Tribal Chairman.

Marie Stiner,

Tribal Secretary.

Port Gamble Klallam Liquor Ordinance

Section 1. Findings and Purpose

1.1 The introduction, possession and sale of liquor on Indian reservations have, since treaty time, been clearly recognized as matters of special concern to Indian tribes and to the United States Federal Government. The control of liquor on reservations remains exclusively subject to their legislative enactments.

1.2 Beginning with the Treaty of Point No Point, 1855, to which the ancestors of the Port Gamble Klallam Tribe were parties, the Federal Government has respected this Tribe's determinations and activities on the Port Gamble Klallam Reservation. At treaty time, this Tribe's ancestors desired to exclude "ardent spirits" from their reservation; and federal law currently prohibits the introduction of liquor into Indian country (18 U.S.C. Sec. 1154), leaving tribes the decision regarding when and to what extent liquor transactions shall be permitted (18 U.S.C. Sec. 1161).

1.3 Present day circumstances make a complete ban of liquor within the Port Gamble Klallam Reservation ineffective and unrealistic. At the same time, the need still exists for strict tribal regulation and control over liquor distribution.

1.4 The enactment of a tribal ordinance governing liquor sales on the Reservation and providing for exclusive purchase and sale through the tribal enterprise will increase the ability of the tribal government to control Reservation liquor distribution and possession, and at the same time, will provide an important source of revenue for the continued operation of the tribal government and delivery of tribal governmental services.

1.5 In order to provide for increased tribal control over liquor distribution and possession on the Reservation and to provide for an urgently needed additional revenue source, the Business Committee of the Port Gamble Klallam Tribe hereby adopts this liquor ordinance.

Section 2. This ordinance shall be known as the Port Gamble Klallam Liquor Ordinance.

Section 3. Relation to Other Tribal Laws

All prior ordinances and resolutions of Port Gamble Klallam Tribe regulating, authorizing, prohibiting or in any way dealing with the sale of liquor are hereby repealed and of no further force and effect and no tribal business licensing law or other tribal law shall be applied in a manner inconsistent with the provisions of this ordinance.

Section 4. Definitions

As used in this ordinance, the following definitions shall apply unless the context clearly indicates otherwise:

4.1 "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilution and mixtures of this substance.

4.2 "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous, or malt

liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor or otherwise intoxicating; and every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semi-solid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating.

4.3 "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt, or brewed liquor or wine, by any person to any person.

4.4 "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural products containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than seventeen percent of alcohol by weight, including sweet wines fortified with wine spirits, such as port, sherry, muscatel and angelica, not exceeding seventeen percent of alcohol by weight.

4.5 "Package" means any container or receptacle used for holding liquor.

4.6 "Business Committee" shall mean the Port Gamble Klallam Business Committee duly elected under tribal law.

4.7 "Reservation" means the Port Gamble Klallam Indian Reservation.

4.8 "Tribe" means the Port Gamble Klallam Tribe.

Section 5. Prohibitions

The introduction, purchase, and sale and dealing in liquor, other than when done by the Port Gamble Klallam tribal government through a tribally owned and operated enterprise as provided in this ordinance, is prohibited within the exterior boundaries of the Port Gamble Klallam Reservation and is hereby declared an offense under tribal law. The federal Indian liquor laws are intended to remain applicable to any act or transaction which is not authorized by this ordinance and violators of this ordinance shall be subject to federal prosecution as well as to legal action in accordance with law. It is intended that possession of liquor by any person now prohibited by federal law from possessing liquor shall be lawful so long as the possession is in conformity with this ordinance.

Section 6. Conformity With State law

Tribally authorized liquor transactions shall comply with Washington State liquor law standards to the extent required by 18 U.S.C. 1161.

Section 7. Port Gamble Klallam Liquor Distribution Agency Created

7.1 There is hereby created a Liquor Distribution Agency. The Port Gamble Klallam Business Committee shall decide upon its formal designated name and whether it is to operate either independently or as a subdivision of another tribal division. This Agency shall be constituted in function as part of the Port Gamble Klallam Tribal Government.

7.2 A manager of the Port Gamble Klallam Liquor Distribution Agency shall be appointed by and shall serve at the sole discretion of the Port Gamble Klallam Business Committee.

7.3 The manager of this Agency shall have the following powers and duties in regard to this agency:

(a) To manage this Liquor Agency for the benefit of the Tribe.

(b) To purchase, in the name of the Tribe, liquor products from wholesale distributors and distribute them to such tribal enterprise outlets as he/she deems appropriate.

(c) To establish, with the Business Committee and subject to its approval, such administrative procedures that are necessary to govern the operation of the Agency.

(d) To report and account to the Business Committee at least twice a year regarding the operation and financial status of the Agency. The Business Committee and the manager shall establish the dates on which such accounting shall take place. The Business Committee may require more frequent accounting if deemed necessary. The manager reports all written reports, accounts and records of the Council's proceedings in regard to the Liquor Agency shall be available for inspection to any Port Gamble Klallam Tribal member, upon demand.

(e) To hire and set salaries of additional personnel, subject to Business Committee approval, as he/she deems necessary to the successful operation of the Agency provided that such employees shall be considered employees of the Tribe for all purposes.

(f) To supervise all Agency employees.

(g) To purchase, with Business Committee approval, and maintain the Agency's real and personal property.

(h) To collect the Port Gamble Klallam liquor excise taxes.

(i) To transfer all tax revenues to the tribal treasurer for deposit in the tribal tax fund, and to transfer to the tribal treasurer for deposit in the Tribe's general fund all other revenue not reasonably foreseen as being required for the operation of the Agency.

(j) To maintain all other Agency revenues in a tribal tax fund under direction from the tribal treasurer. With the written approval of at least one Business Committee person, funds may be withdrawn from this account by the manager for the wholesale purchase of liquor products to be sold pursuant to this chapter for payment of salaries and business expenses of employees of the Agency, and for the purchase and upkeep of real and personal property required for the Agency's operation.

(k) To set the retail price for liquor products, in cooperation with the Business Committee.

(l) To obtain and maintain in full force and effect a policy of general liability insurance covering any owned or leased liquor outlet premises in an amount set by the Business Committee. The policy shall contain the stipulation that the Port Gamble Klallam Tribe shall be given ten days notice of the proposed cancellation or expiration of such policy. The manager shall submit to the Business Committee a Certification of Insurance from such policy and shall have available for inspection a complete copy of such policy.

(m) The manager shall be bonded for such additional amount and for such additional purposes as the Business Committee shall determine to be appropriate in managing the Liquor Distribution Agency.

(n) Performing all matters and things incidental and necessary to conduct its business and carry out its duties and functions.

(o) Promulgating rules and regulations governing the time, place and manner of sale.

7.4 All sales at tribal liquor outlets shall be on a cash only basis and no credit shall be extended to any person, organization, or entity.

7.5 All sales shall be for the personal use of the purchases and resale for profit of any liquor purchased at a tribal liquor outlet is prohibited within the Port Gamble Indian Reservation. Any person who purchases liquor at a tribal store and resells that beverage for profit, whether in the original container or not, shall be subject to the penalties in this ordinance.

7.6 The entire stock of liquor sold under this ordinance shall remain tribal property owned by the Port Gamble Klallam Indian Tribe until sold.

7.7 No liquor shall be distributed to any tribal enterprise outlet unless such outlet is owned operated and controlled by the Port Gamble Klallam Tribe.

Section 8. Sovereign Immunity Preserved

Nothing in this chapter is intended or shall be construed as a waiver of the sovereign immunity of the Port Gamble Klallam Tribe. No manager or employee of the Agency shall be authorized, nor shall he/she attempt, to waive the immunity of the Tribe.

Section 9. Excise Tax Levy

9.1 There is hereby levied and shall be collected an excise tax upon each retail sale of liquor, except beer and wine, and whatever packages or container, in the amount of three (3) cents per fluid ounce or fraction thereof contained in such package or container. There is hereby levied and shall be collected an excise tax upon each retail sale of beer and wine in the original package in the amount of five percent (5%) of the selling price. Said taxes shall be added to the sales price of the liquor sold and shall be paid by the buyer to the Port Gamble Klallam Liquor Distribution Agency (or whatever name it shall be known) who shall collect the same and hold them in trust for the Port Gamble Klallam Tribe until deposited as provided in Section 7.3(i) of this ordinance. The taxes provided for herein shall be only taxes applicable to activities of the Port Gamble Klallam Liquor Distribution Agency.

9.2 These taxes which shall be deposited, through the tribal treasurer, as provided in Section 7.3(i) and shall be used for the benefit of the Reservation and tribal community. In appropriating these tax revenues, the Business Committee shall give priority to:

(a) Strengthening tribal government, which shall include but not be limited to strengthening Tribal Court and Law Enforcement systems and the system for administering and enforcing this ordinance.

(b) Health, education, and other social services, and land acquisition and development needs.

(c) Enhancing equal business opportunities for tribal members and the Tribal Enterprise Division.

(d) Providing other reasonable and necessary services to tribal members.

The Business Committee shall have the discretion to determine which of the above priorities shall receive an appropriation and the amount of the appropriation for a given priority.

9.3 The manager shall keep such records as shall be sufficient for the tribal tax administration to determine the amount of tax owing and shall complete tax returns in accordance with instruction from the tribal tax administrator.

9.4 Amendments to the amounts and type of taxes levied on Reservation liquor dealings may be made from time to time by approval of the Port Gamble Klallam Business Committee, after consultation with the Liquor Distribution Agency manager.

Section 10. Penalties—Remedies.

10.1 If any person is found to have violated this ordinance or any lawful regulation or rule made pursuant thereto for which no penalty has been specifically provided, he or she shall be liable for a civil penalty of not more than five hundred dollars ($500.00) plus costs per violation.

10.2 The Tribal Court shall have jurisdiction over any case brought by the Tribe for violations of this ordinance. The Tribal Court may, in addition to the above penalty, grant to the Tribe such other relief as is necessary and proper for the enforcement of this ordinance, including but not limited to injuctive relief against acts in violation of this ordinance.

Section 11. Illegal Activities

11.1 Liquor Stamp—Contraband. No liquor shall be sold on the Reservation unless there shall be affixed a stamp of the Liquor Distribution Agency. Any sales made in violation of this provision shall be a violation of this ordinance which shall be remedied as set out in Section 10 herein. All liquor which is sold or held for sale on the Reservation without a stamp is hereby declared contraband and, in addition to any penalties imposed by the Tribal Court for violation of this section, it may be confiscated and forfeited in accordance with the procedures set out in Section 12 herein. Beer, wine, and malt liquor shall be excluded from this Section 11.1.

11.2 Proof of Unlawful Sale—Intent. In any proceeding under this ordinance, proof of one unlawful sale of liquor shall suffice to establish *Prima Facie* the intent or purpose of unlawfully keeping liquor for sale in violation of this ordinance.

11.3 Use of Seal. No person other than an employee of the Tribe shall keep or have in his or her possession any legal seal prescribed under this ordinance unless the same is attached to a package which has been purchased from a tribal liquor outlet, nor shall any person keep or have in his or her possession any design in imitation of any official seal prescribed under this ordinance or calculated to deceive by its resemblance to any official seal, or any paper upon which such design is stamped, engraved, lithographed, printed or otherwise marked. Any person violating this provision shall be in violation of this ordinance.

11.4 Illegal Transportation, Still, or Sale without Permit. Any person who shall sell or offer for sale or transport in any manner, any liquor in violation of this ordinance, or who shall operate or have in his or her possession without a permit, any mash capable of being distilled into liquor, shall be in violation of this ordinance.

11.5 Illegal Sale of Liquor by Drink or Bottle. Except as otherwise provided in this ordinance, any person who sells any liquor by the drink or bottle, shall be in violation of this ordinance.

11.6 Illegal Purchase of Liquor. Any person within the boundaries of the reservation who buys liquor from any person other than at a properly authorized tribal liquor outlet shall be in violation of this ordinance.

11.7 Illegal Possession of Liquor—Intent To Sell. Any person who keeps or possesses liquor on his or her person or in any place or on premises conducted or maintained by him or her as a principal or agent with the intent to sell it contrary to the provisions of this ordinance, shall be in violation of this ordinance.

11.8 Sales to Persons Apparently Intoxicated. Any person who sells liquor to a person apparently under the influence of liquor shall be in violation of this ordinance.

11.9 Drinking in a Public Conveyance. Any person engaged wholly or in part in the business of carrying passengers for hire, and every agent, servant, or employee of such person who shall knowingly permit any person to drink any liquor in any public conveyance shall be in violation of this ordinance. Any person who shall drink any liquor in a public conveyance shall be in violation of this ordinance.

11.10 Furnishing Liquor to Minors. Except in the case of liquor given or permitted to be given to a person under the age of twenty-one (21) years by his or her parent or guardian for beverage or medicinal purposes, or administered to him or her by his or her physician or dentist for medicinal purposes, no person under the age of twenty-one (21) shall consume, acquire, or have in his or her possession any alcoholic beverages except when such beverage is being used in connection with religious services. No person shall give or otherwise supply liquor to any person under the age of twenty-one (21) nor shall he or she permit any person under the age of twenty-one (21) to consume

liquor on his or her premises or on any premises under his or her control except as allowed in this section. Any person violating this section shall be in violation of this ordinance.

11.11 Sales of Liquor to Minors. Any person who shall sell any liquor to any person under the age of twenty-one (21) years of age shall be in violation of this ordinance.

11.12 Unlawful Transfer of Identification. Any person who transfers in any manner an identification of age to a minor for the purpose of permitting such minor to obtain liquor shall be in violation of this ordinance; provided, that corroborative testimony of a witness other than the minor shall be a requirement for a judgment against the defendant.

11.13 Possessing False or Altered Identification. Any person who attempts to purchase liquor through the use of false or altered identification which falsely purports to show the individual to be over the age of twenty-one (21) years of age shall be in violation of this ordinance.

11.14 Identification—Proof of Minimum Age. Where there may be a question of a person's right to purchase liquor by reason of his or her age, such person shall be required to present any one of the following officially issued cards of identification which shows correct age and bears his or her signature and photograph:

(1) Liquor Control Authority Card of Identification
(2) Driver's license of any state or "Indenti-Card"
(3) United States Active Duty Military Identification
(4) Passport
(5) Tribal Identification or Enrollment Card

11.15 Defense To Action for Sale to Minors. It shall be a defense to a suit for serving liquor to a person under twenty-one (21) years of age if such person has presented a card of identification.

(1) In addition to the presentation by the holder and verification by the server of such card of identification, the server shall require the person whose age may be in question to sign a card and place a date and number of his card of identification thereon. Such statement shall be upon a five-inch by eight-inch file card, which card shall be filed alphabetically by the server at or before the close of business on the day on which the statement is executed. The file box containing a suitable alphabetical index and the card shall be subject to examination by any tribal peace officer.

(2) Such card in the possession of a server may be offered as a defense in any hearing held by the Tribal Court for serving liquor to the person who signed the card and may be considered by the Court as evidence that the person acted in good faith.

Section 12. Contraband—Seizure/Forfeiture

12.1 All liquor within the reservation held, owned, or possessed by any person or liquor outlet operating in violation of this ordinance are hereby declared to be contraband and subject to forfeiture to the Tribe. Upon application of the Tribe, the Tribal Judge shall issue an order directing the Tribal Law Enforcement Officer to seize contraband liquor within this reservation and deliver it to the Business Committee. A copy of the court order shall be delivered to the person from whom the property was seized.

12.2 Within two weeks following the seizure of the contraband a hearing shall be held in Tribal Court, at which time the operator or owner of the contraband shall be given an opportunity to present evidence in defense of his or her activities.

12.3 Adequate notice of the hearing shall be given to the person from whom the property was seized if known. If the person is unknown, notice of the hearing shall be posted at the place where the contraband was seized and at some other public place. The notice shall describe the property seized, and the time, place, and cause of seizure and give the name and place of residence, if known, of the person from whom the property was seized.

12.4 Judgment of Forfeiture—Disposition of Proceeds of Property Sold. If upon the hearing, the evidence warrants, or if no person appears as claimant, the Tribal Court shall thereupon enter a judgment of forfeiture, and order such articles destroyed forthwith.

Section 13. Abatement

13.1 Declaration of Nuisance. Any room, house, building, boat, vessel, vehicle, structure, or other place where liquor is sold, manufactured, given away, furnished, or otherwise disposed of in violation of the provisions of this ordinance or any lawful regulations made pursuant thereto, or of any other tribal law relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, and all property kept in and used in maintaining such a place, are hereby declared to be a common nuisance.

13.2 Institution of Action. The Tribe may institute and maintain an action in the Tribal Court in the name of the Tribe to abate and perpetually enjoin any nuisance declared under this ordinance. The Tribe shall not be required to give bond in this action. Restraining orders, temporary injunctions, and permanent injunctions may be granted in the cause as in other injunction proceedings, and upon final judgment against the defendant, the Court may also order the room, house, building, boat, vessel, vehicle, structure, or place closed for a period of one (1) year or until the owner, lessee, tenant, or occupant thereof shall give bond of sufficient surety to be approved by the Court in the penal sum of not less than one thousand dollars ($1,000.00), payable to the Tribe and conditioned that liquor will not be thereafter manufactured, kept, sold, given away, furnished, or otherwise disposed of thereof in violation of the provisions in this ordinance or of any other applicable tribal law, and that he or she will pay all fines, costs, and damages assessed against him or her for any violation of this ordinance or other tribal liquor laws. If any condition of the bond be violated, the whole amount may be recovered as a penalty for the use of the Tribe. Any action taken under this section shall be in addition to any other penalties provided in the ordinance.

13.3 Abatement. In all cases where any person has been found by the Tribal Court to have violated this ordinance, applicable tribal regulations or tribal laws relating to the manufacture, importation, transportation, possession, distribution, and sale of liquor, an action may be brought in Tribal Court by the Tribe to abate as a nuisance any real estate and other property involved in the commission of the offense, and in any such action a certified copy of the record of such conviction shall be admissible in evidence and *Prima Facie* evidence that the room, house, vessel, boat, building, vehicle, structure, or place against which such action is brought is a public nuisance.

Section 14. Severability

14.1 If any clause, part or section of this ordinance shall be adjudged invalid, such judgment shall not affect or invalidate the remainder of the ordinance, but shall be confined in its operation to the clause, part, or section directly involved in the controversy in which such judgment was rendered.

14.2 If any application of this ordinance or any clause, part or section thereof, is adjudged invalid, such judgment shall not be deemed to render that provision inapplicable to other persons or circumstances.

Section 15. Disclaimer

Nothing in this ordinance shall be construed to authorize or require the criminal trial and punishment of non-Indians except to the extent allowed by any applicable present or future Act of Congress or any applicable federal court decision.

Section 16. Effective Date

This ordinance shall be effective on such date as the Secretary of the Interior certifies this ordinance and publishes the same in the **Federal Register.**

Section 17. Amendments

This ordinance may be amended by a majority vote of the Business Committee.

[FR Doc. 81-17904 Filed 6-16-81; 8:45 am]
BILLING CODE 4310-02-M

White Mountain Reservation, Ariz.; Ordinance Establishing Lawful Age for all Purposes of the Liquor Laws

June 5, 1981.

This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 18 U.S.C. 1161 (1976). I certify that the following Ordinance amending Ordinance No. 92, published in the **Federal Register** on February 7, 1973, relating to the application of the Federal Indian Liquor Laws on the White Mountain Indian Reservation, Arizona, was adopted on October 1st, 1980, by the White Mountain Apache Tribal Council which has jurisdiction over the area of Indian country included in the Ordinance, reading as set forth below.

Roy H. Sampsel,

Deputy Assistant Secretary—Indian Affairs.

Article II. Unlawful Acts

It is unlawful:

10. For a licensee or any other person to sell, deliver, give or otherwise furnish spirituous liquors to any person under the age of twenty-one years, or leave or deposit any such spirituous liquors in any place with the intent that the same shall be procured by any person under the age of twenty-one years, or for a person under the age of twenty-one years to buy, receive, have in his possession or consume, spirituous liquor. It shall be the responsibility of the licensee or his employee and of anyone acting in his behalf to ascertain that the purchaser of any intoxicating beverage either by the drink, or by the bottle or any other container is twenty-one years of age or older.

11. For a licensee to employ a person under the age of twenty-one years to manufacture, sell or dispose of spirituous liquors.

12. For an on-sale retail licensee to employ a person under the age of twenty-one years in any capacity connected with the handling of spirituous liquors.

23. For a person under twenty-one years of age to offer or present to a licensee, employee or other person a fraudulent or false certificate of birth or other written evidence of age which is not actually his own, or to otherwise mispresent his age, for the purpose of inducing the licensee or employee to sell, give, serve or furnish spirituous liquor contrary to law.

24. To influence or attempt to influence the sale, giving or serving of spirituous liquor to a person under twenty-one years of age by misrepresenting the age of such person or to order, request, receive or procure spirituous liquor from any licensee, employee or other person for the purpose of selling, giving, or serving it to a person under twenty-one years of age.

26. For any person under the age of twenty-one years to buy, sell, give, possess, deliver, serve, or to be employed for any of the foregoing, or to consume, any spirituous liquor within the Fort Apache Indian Reservation.

Article V

Section II: Be it further enacted that all Tribal resolutions, Ordinances, and Tribal Law adopting liquor laws of the State of Arizona, are hereby amended to provide in all applicable sections that the lawful age for all purposes of the Tribal liquor laws within the exterior boundaries of the Fort Apache Indian Reservation shall be twenty-one years.

The foregoing Ordinance No. 115 was on October 1, 1980 duly enacted by a vote of *9* for and *0* against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1(q) of the Amended Constitution and By-laws of the Tribe, ratified by the Tribe June 27, 1958, and approved by the Secretary of the Interior on May 28, 1958, pursuant to Section 16 of the Act of June 18, 1934 (43 Stat. 984).

Ronnie Lupe,

Chairman of the Tribal Council.

Mary Endfield,

Secretary of the Tribal Council.

LaFolette Butler,

Assistant Area Director.

Henry A. Dodge,

Superintendent, Fort Apache Agency, Whiteriver, AZ.

[FR Doc. 81-17905 Filed 6-16-81; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

[SAC-047465 WR, S-3531 WR]

California; Proposed Continuation of Withdrawals

June 8, 1981.

In accordance with the provisions of Section 204 of the Federal Land Policy and Management Act, the Bureau of Land Management proposes to continue the withdrawals of the Honey Lake Waterfowl Management Area on the following lands:

Mount Diablo Meridian, California

1. Public Land Order 759 dated October 22, 1951, SAC-047465 WR.

T. 28 N., R. 14 E.,
Sec. 3, Lots 1 and 2 of the NW¼, SW¼;
Sec. 4, SE¼SE¼;
Sec. 11, SE¼;
Sec. 12, Fractional SE¼.
The area described aggregates 673.65 acres in Lassen County, California.

2. Public Land Order 1449 dated July 25, 1959, SAC-047465 WR.

T. 28 N., R. 14 E.,
Sec. 13, Lots 1, 2 and 3;
Sec. 14, Lots 1 thru 4 inclusive;
Sec. 15, Lot 1, NE¼NW¼.
The area described aggregates 185.78 acres in Lassen County, California.

3. Public Land Order 5038 dated April 6, 1971, S-3531 WR.

T. 28 N., R. 14 E.,
Sec. 9, NE¼SE¼, S½SE¼.
T. 28 N., R. 15 E.,
Sec. 7, Lots 3 thru 6 inclusive.
The area described aggregates 191.46 acres in Lassen County, California.

The Honey Lake Waterfowl Management Area is administered by the State of California's Department of Fish and Game under a cooperative agreement with the Department of the Interior. The lands are segregated from all forms of appropriation under the public land laws including the mining laws but not from leasing under the mineral leasing law.

No change in the segregative effect of the withdrawals or the use of the land is proposed.

Notice is hereby given that a public hearing is afforded in connection with the proposed withdrawal continuations. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned on or before July 17, 1981. Upon determination by the State Director, Bureau of Land Management, that a public hearing should be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual 23511.16B. Additionally, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the BLM on or before July 17, 1981.

The authorized officer of the BLM will undertake such investigations as are necessary and prepare a report for consideration by the Office of the Secretary of the Interior. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made. All communication in connection with the withdrawal continuations should be addressed to the undersigned, Bureau of Land Management, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81–17897 Filed 6–16–81; 8:45 am]

BILLING CODE 4310–84–M

Las Vegas District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Las Vegas District Grazing Advisory Board will be held on July 23, 1981, in the Las Vegas District Conference Room at 4765 W. Vegas Drive, Las Vegas, Nevada.

The Agenda will be as follows:

(1) Reading of the minutes of the previous meeting; (2) Discussion of and action on proposed range betterment projects to be constructed during FY 81; (3) Discussion of range betterment projects constructed in FY 81 in Caliente Planning Unit; (4) Progress on Coordinated Resource Management Planning; (5) Discussion of Progress on Clark Planning & E.S.; (6) Other range matters; (7) Arrangements for the next meeting; (8) Public comments.

The meeting is open to the public. Interested parties may make oral statements to the board between 1:30 and 2:00 p.m. on the date of the meeting or file written statements for the board's consideration before or during the meeting. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 4765 W. Vegas Drive, Las Vegas, NV. (P.O. Box 5400, zip code 89102) by July 21, 1981. Depending on the number of persons wishing to make an oral statement, the District Manager may establish a per-person time limit.

Summary minutes of the board meeting will be maintained at the District Office. They will be available for public inspection during regular business hours (7:30 a.m. to 4:15 p.m.) within 30 days after the meeting.

June 5, 1981.

Kemp Conn,

District Manager.

[FR Doc. 81–17899 Filed 6–16–81; 8:45 am]

BILLING CODE 4310–84–M

[NM 1624 and NM 1624, Amdts. 2 and 3]

New Mexico; Termination of Classification of Public Lands for Multiple Use Management

June 9, 1981.

1. On June 20, 1967 (FR, Vol. 32, No. 118, pages 8768–8772) the public lands described in the notice, aggregating approximately 1,415,335 acres were classified for multiple use management pursuant to the Act of September 19, 1964 and segregated from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9, and 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands remained open to all other applicable forms of appropriation, including the mining and mineral leasing laws. On December 17, 1970 (FR, Vol. 35, No. 244, pages 19136–19137) an additional 24,725.65 acres and 5,046.87 acres were classified and similarly segregated under NM 1624 Amdts. 2 and 3, respectively.

2. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classifications referred to under paragraph 1 above are hereby terminated. This action will restore the lands to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law. The lands have been open continually to the mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning these lands should be addressed to the Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Leroy C. Montoya,

Chief, Division of Technical Services.

[FR Doc. 81–17892 Filed 6–16–81; 8:45 am]

BILLING CODE 4310–84–M

[NM 9752]

New Mexico; Termination of Classification of Public Lands for Multiple Use Management

June 9, 1981.

1. On July 30, 1970 (FR, Vol. 35, No. 147, page 12220), the public lands described in the notice, aggregating approximately 19,627.78 acres in San Miguel County, New Mexico, were classified for multiple use management under the Act of September 19, 1964 and segregated from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands remained open to all other applicable forms of appropriation, including the mining and mineral leasing laws.

2. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classifications referred to under paragraph 1 above are hereby terminated. At 8:00 a.m., on July 13, 1981, the lands described in said notice of July 30, 1970 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:00 a.m., on July 13, 1981 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Inquires concerning these lands should be address to the Chief, Division of Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Leroy C. Montoya,

Chief, Division of Technical Services.

[FR Doc. 81–17893 Filed 6–16–81; 8:45 am]

BILLING CODE 4310–84–M

[NM 9491]

New Mexico; Termination of Classification of Public Lands for Multiple Use Management

June 9, 1981.

On September 17, 1970 (FR, Vol. 35, No. 181, pages 14564–14565), the public lands described under Groups I, II and III of the notice, aggregating 94,529.06,

832.50 and 707.58 acres, respectively, were classified for multiple use management under the Act of September 19, 1964 and segregated from appropriation under the agricultural land laws (43 U.S.C. Parts 7 and 9; 25 U.S.C. sec. 334) and from sales under section 2455 of the Revised Statutes (43 U.S.C. 1171). The lands in Groups II and III were further segregated from all other forms of appropriation, including the general mining laws, but not the mineral leasing laws.

2. Pursuant to the regulations set forth in 43 CFR 2461.5(c)(2), the classification is hereby terminated. At 8:00 a.m., on July 13, 1981, the lands described in the notice referred to under paragraph 1 above, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:00 a.m., on July 13, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands described under Groups II and III of said notice will also be open to location under the United States mining laws at 10:00 a.m., on July 13, 1981.

Inquiries concerning these lands should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Leroy C. Montoya

Chief, Division of Technical Services.

[FR Doc. 81-17804 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 6534]

Oregon; Termination of Disposal Classification

1. By Order of the Oregon State Director, Bureau of Land Management, which was published in the **Federal Register** on August 16, 1972 (37 FR 16558), the following described public land was classified for disposal through exchange pursuant to Section 2 of the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1412):

Willamette Meridian

T. 7 S., R. 4 E., Sec. 13, NW¼NW¼.

The area described contains 40 acres in Clackamas County, Oregon.

2. The above-described public land has been eliminated from any exchange proposal; accordingly, pursuant to 43 CFR 2461.5(c)(2), the classification is terminated upon publication of this notice in the **Federal Register.**

3. At 10: 00 a.m., on July 22, 1981, the above-described public land will be relieved of the segregative effect of the above-mentioned classification order.

Dated: June 8, 1981.

Paul M. Vetterick,

Acting State Director.

[FR Doc. 81-17902 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF THE INTERIOR

Moab District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

Notice is hereby given, in accordance with Pub. L. 92-463, that a meeting of the Moab District Grazing Advisory Board will be held July 27, 1981 at 10 a.m. in the Moab District Office conference room, located at 125 West 200 South in Moab, Utah. The meeting is open to the public.

The agenda for the meeting will include:

1. Discussion on Range Improvements (RI).

a. Proposed construction of new RI for Fiscal Year 1982.

b. Maintenance of existing RI for Fiscal Year 1982.

c. Use of Grazing Advisory Board funds for maintenance of cooperative agreement RI and Section 4 RI permits.

d. Proposed Range Improvement Policy review and submission of comments on the Interim Guidance.

2. Range Monitoring.

a. How it relates to range use adjustments.

b. BLM Responsibility: primary studies used

c. Allottee Responsibility: How they will be involved .

3. Discussion on Interim Rangeland Management Program.

a. How it relates to Grazing Environmental Impact Statement.

b. How it affects the allottees.

4. Discussion of status of Price River EIS.

5. Discussion of Grand Resource Area Range Program.

6. Discussion of Allotment Management Plan (AMP) revisions.

Interested persons may make oral statements to the Board between 2 and 3 p.m. or may file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532 (801-259-6111) by July 23, 1981.

Gene Nodine,

District Manager.

[FR Doc. 81-17955 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Classification Partially Revoked and Lands Open to Entry; Correction

On February 6, 1970 (FR, Vol. 35, No. 30, Page 2901) the following described land was classified for multiple use management under the Act of September 19, 1964 and segregated from appropriation under the agricultural land laws and from sale under R.S. 2455:

Mount Diablo Meridian, Nevada

T. 19 N., R. 35 E.,
Sec. 3, S½NW¼SW¼SE¼, S½SW¼SE¼, SW¼SW¼SE¼SE¼;
Sec. 10, N½NE¼NE¼, N½S½NE¼NE¼, N½N½NW¼NE¼;
Sec. 11, N½NE¼NW¼, NE¼SW¼>NE¼NW¼, W½SE¼NE¼NW¼, N½SW¼NW¼NW¼, NW¼SE¼>NW¼NW¼, SE¼SE¼NW¼, NE¼NW¼>NE¼SW¼.

The land described aggregated 115 acres.

Review and evaluation of the land use capabilities of the above described land indicates that the classification is no longer valid and it is hereby revoked.

The land is now open to the operation of the public land laws, subject to valid existing rights and the requirements of applicable law. The land has been open continually to the mining laws and to applications and offers under the mineral leasing laws. All valid applications received at or before 10 a.m. on July 20, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. A drawing to determine application priority will be held if more than one application embraces, wholly or in part, the same described land.

Inquiries and applications concerning this land should be addressed to the Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, NV 89520.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 81-17950 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Filing of Plats of Survey and Order Providing for Opening of Lands

1. The Plats of Survey of lands described below will be officially filed at the Nevada State Office, Reno,

Nevada, effective at 10:00 a.m., on July 24, 1981.

Mount Diablo Meridian, Nevada

T. 18½ N., R. 46 E.

2. The land within the above township varies from rolling to gently rolling land. Elevation ranges from 6,300 to 7,100 feet above sea level. Soil varies from sandy clay loam and rocky on higher elevations to sandy clay loam on lower lands. Vegetation consists on juniper, pinion, budsage, shadscale and crested wheatgrass.

U.S. Highway No. 50 crosses through the township. There is a campground in the North portion of Sec. 11.

No mineral formations of consequence were noted.

3.

Mount Diablo Meridian, Nevada

T. 24 N., R. 41 E.

The land surveyed and resurveyed within this township is located in Antelope Valley. Elevation ranges from about 5,000 to 5,700 feet above sea level. Soil ranges from sandy clay loam and rocky in higher elevations to sandy clay loam in lower elevations. Vegetation consists of shadscale, white sage, and bunchgrass.

Principal users of the area are cattlemen and access to the township is provided by numerous desert roads.

4.

Mount Diablo Meridian, Nevada

T. 16 N., R. 44 E.

Lands in this township range from 5,500 feet to 7,200 feet above sea level and is nearly level to rolling and mountainous. Juniper, pinion and mahogany grow on the higher elevations.

Town of Kingston is located partially in Sec. 31. Access is provided by Nevada State Highway 8A, supplemented by numerous improved and unimproved desert trails.

No mineral formations of consequence were noted.

5.

Mount Diablo Meridian, Nevada

T. 24 N., R. 23 E.
T. 24 N., R. 24 E.

A determination of partition lines in the dry lake bed of Winnemucca Lake; reestablishment of a portion of the original meander lines and completion of survey of the East and North boundary lines and the subdivisional lines.

Lands surveyed within the above townships ranges from 3,820 to 5,220 feet above sea level and are located primarily in the dry lake bed of Winnemucca Lake. Soil is of sandy clay loam.

The lake bed was at one time fed with water from Pyramid Lake.

Principal users are cattlemen. Access into the townships is provided by State Highway No. 34 and numerous trail roads.

6. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby opened to such applications and petitions as may be permitted. All such valid applications received at or prior to 10:00 a.m. on July 24, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, P.O. Box 12000, Reno, Nevada 89520.

Dated: June 9, 1981.

Loyd C. Miller,

Chief, Branch of Records and Data Management.

[FR Doc. 81-17952 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-84-M

Shoshone District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM) Interior.

ACTION: Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-529, and 43 CFR Part 1780, that a meeting of the Shoshone District Grazing Advisory Board will be held on Wednesday, July 22, 1981, at 9 a.m., at the BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

Agenda for the Grazing Advisory Board Meeting will be:

1. Recommendation on Range Betterment (8100) Funds for FY 82.

2. Proposed Allotment Management Plans.

Supplementary Information: The meeting is open to the public. Anyone wishing to make an oral statement must notify the district manager at the above address by July 15, 1981. Depending on the number of persons wishing to make an oral statement, a per person time limit may be considered. Statements to the board will be made between 1 and 3 p.m., on the day of the meeting.

Summary minutes of the meetings will be maintained in the district office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: June 8, 1981.

Charles J. Haszier,

District Manager.

[FR Doc. 81-17908 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 29587 (Sub-No. 1)]

Consolidated Rail Corp. Exemption-Abandonment of the Orange Avenue Branch in Cleveland, Ohio; Decision-Notice

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the abandonment of a 2.9-mile segment of rail line, the Orange Avenue Branch of Consolidated Rail Corporation (Conrail), in Cleveland, OH, from the requirements of prior Commission approval under 49 U.S.C. 10903.

DATES: Exemption effective upon publication in the **Federal Register.** Petitions for reconsideration of this action must be filed within 20 days after this publication.

ADDRESSES: Send pleadings to:

(1) Section of Finance, Room 5414, Interstate Commerce Commission, 12th St. and Constitution Ave., Washington, DC 20423, and

(2) Petitioner's representative: Charles E. Mecham, 1138 Six Penn Center Plaza, Philadelphia, PA 19104.

Pleadings should refer to Finance Docket No. 29587 (Sub-No. 1).

FOR FURTHER INFORMATION CONTACT: Ellen D. Hanson, (202) 275-7245.

SUPPLEMENTARY INFORMATION:

The Proposed Transaction

Conrail has filed a petition to exempt the abandonment of a 2.9-mile segment of its Orange Avenue Branch in Cleveland, OH from the requirements of 49 U.S.C. 10903.

This petition was originally filed as a part of a proposal to exempt the abandonment of 51 other lines, in Finance Docket No. 29587. By letter filed May 11, 1981, Conrail has requested that the Orange Avenue Branch be treated separately. It notes that it has negotiated the sale of this line to the Greater Cleveland Regional Transit Authority, and that it would like to be able to consummate the sale by June 30, 1980.

The Orange Avenue Branch was listed on Conrail's 1979 System Diagram Map

as a category 1 line. Conrail states that no traffic has been handled on the line for at least one year. It knows of no demand for service during that period and does not believe there is any prospect for generating traffic on the line in the future. It states that abandonment will have no effect on its operations or on its ability to provide service on other lines. Conrail expects to obtain substantial benefits from abandonment. A grant of the exemption would permit it to salvage rail and other materials for use elsewhere in its system and to consummate its proposed sale of the line at a substantial price.

The Statute

Rail abandonments require the approval and authorization of the Commission under 49 U.S.C. 10903. To obtain our approval, an application must be filed in compliance with our regulations at 49 CFR Part 1121 (1978) (abandonment regulations). Conrail requests an exemption from 49 U.S.C. 10903 so that it will not have to file a formal application under the abandonment regulations.

Under 49 U.S.C. 10505, as modified by section 213 of the Staggers Rail Act of 1980 (Pub. L. 96-448, 94 Stat. 1895, October 14, 1980 (Staggers Act), the Commission is authorized to exempt a transaction when (1) continued regulation is not necessary to carry out the Rail Transportation Policy of 49 U.S.C. 10101a; and (2) either the transaction is of limited scope, or regulation is not necessary to protect shippers from the abuse of market power.

Discussion and Conclusions

Our detailed scrutiny of this abandonment is not necessary to carry out the rail transportation policy of section 10101a because the abandonment does not affect shippers, employees or competing carriers.

The proposed abandonment is limited in scope. It encompasses only a relatively short track segment which is currently not used in any rail operations. Service to shippers will continue to be conducted in the same manner as in the past.

Since the proposed transaction is of limited scope, it is not necessary to consider whether our regulation is needed to protect shippers from the abuse of market power.

Public Use Condition and Offers of Financial Assistance. In abandonment applications filed pursuant to 49 U.S.C. 10903, we are required to consider two matters that have not been specifically considered in this exemption proceeding. First, 49 U.S.C. 10906 requires us to determine if the property to be abandoned is suitable for other public uses. If the property is suitable, we impose certain conditions to allow interested persons an opportunity to obtain the property. Second, 49 U.S.C. 10905, as modified by section 402 of the Staggers Act, allows interested persons to make offers of financial assistance to assure the continuation of operations over the line. Under the procedure provided by this section, financial offers may lead to continued subsidized operation of the line or sale of the line for continued operations by others.

Since the provisions of sections 10905 and 10906 apply only to applications under section 10903, we are not required to allow offers of financial assistance or impose any public use conditions when an exemption is given, because no application need be filed. We note, however, that these matters may be raised in petitions for reopening of this proceeding.

Labor Protection. In granting an exemption under section 10505, we may not relieve a carrier of its obligation to protect the interests of employees as required by 49 U.S.C. Subtitle IV. (See 49 U.S.C. 10505(g)(2).) Therefore, as a condition to this exemption, we will impose the same level of labor protection as is usually required in abandonment transactions. We have determined that the employee protective conditions developed in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 ICC 91 (1979), satisfy the statutory requirements for protection of employees involved in an abandonment transaction.

Energy and Environmental Considerations. Our initial review of the proposal indicates that the abandonment will not significantly affect energy consumption or the quality of the human environment. Various Ohio agencies concerned with environmental issues have been informed of this action by our Section of Energy and Environment. These agencies or other interested persons may file petitions to reopen this proceeding on environmental grounds.

It is ordered:

(1) The letter request to treat the Orange Avenue Line separately is granted.

(2) We exempt from the requirements of 49 U.S.C. 10903 the abandonment by Conrail of the 2.9-mile line described in its petition subject to the conditions for the protection of employees embodied in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 ICC 91 (1979).

(3) Notice of our action shall be given to the general public by delivery of a copy of this decision to the Director, **Federal Register**, for publication.

(4) This exemption will continue in effect for one year from the effective date of this decision. The abandonment of the line segment must occur during that time in order to use this exemption.

(5) This decision is effective when published in the **Federal Register**.

(6) Petitions to reopen this proceeding for reconsideration of this decision must be filed no later than 20 days after the date of publication in the **Federal Register**.

Decided: June 10, 1981.

By the Commission, Acting Chairman Alexis, Commissioners Gresham, Clapp, Trantum, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-17961 Filed 6-16-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–129

The following applications were filed in region 2: Send protests to: ICC, Federal Reserve Bank Building, 101 N. 7th Street, Room 620, Philadelphia, PA 19106.

MC 146372 (Sub-II–1TA), filed June 8, 1981. Applicant: DON'S TRUCKING INC., 1801 Coxendale Rd. Chester, VA 23831. Representative: Paul D. Collins, 7761 Lakeforest Dr. Richmond, VA 23235. *General commodities (except household goods as defined by the Commission and classes A & B explosives),* between pts. in VA, on the one hand, and, on the other, pts. in DE, GA, MD, NJ, NY, NC, SC, VA, WV and DC, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: There are 5 supporting shippers. Their statements may be examined at the ICC Reg. Ofc., Phila., PA.

MC 156374 (Sub-II–1TA), filed June 8, 1981. Applicant: OVERLAND TRANSPORT, INC., 8125 Rosebank Ave., Baltimore, MD 21222. Representative: Marion James Capezio, 715 Corbett Rd., Monkton, MD 21111. Contract, irregular: *Bowling Alley equipment and accessories having a prior or subsequent movement by water* under continuing contract with AMF Bowling Products Group, (1) from the fac. of A.M.F. Corp., located at Shelby, OH and York, PA to pts. in MD, PA, VA, NY, NC, SC, DE & NJ; and (2) from Baltimore, MD to Shelby, OH, for 270 days. Supporting shipper: A.M.F. Inc., Jericho Tpke., Westbury, NY 11590.

MC 136511 (Sub-II–8TA), filed June 8, 1981. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: J. Johnson Eller, Jr. 513 Main St., Altavista, VA 24517. *Furniture and furniture parts and materials and supplies used in the manufacture thereof,* between Marion County, SC, Dallas County, AL and Fulton County, OH, on the one hand, and, on the other, points in the United States for 270 days. Supporting shipper: Pilliod Cabinet Co., 105 Woodland Ave., Swanton, OH 43558.

MC 153562 (Sub-II–1TA), filed June 8, 1981. Applicant: EMMETT BPMD. d.b.a. KTA TRANSPORTATION, 295 Orange Street Mansfield, OH 44902. Representative: Thomas M. Mulroy 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. *Contract Carrier, Irregular Route: salt* from Baltimore, MD and Chicago, IL to Mansfield, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Richland Water Company, 662 Park Avenue East, Mansfield, OH 44905.

MC 1936 (Sub-II–1TA), filed June 8, 1981. Applicant: B & P MOTOR EXPRESS, COMPANY 825 West Federal Street, Youngstown, OH 44501. Representative: David A. Turano, Baker & Hostetler, 100 E. Broad St., Columbus, OH 43215. *General Commodities (except Classes A and B explosives)* between pts in PA, on the one hand, and, on the other, pts in AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, and WV for 270 days. Applicant intends to tack the authority sought herein with authority held under MC 1936. Supporting shippers: Titusville Fabricators, Inc., 106 W. Mechanic St., Titusville, PA 16354; Franklin Steel, Inc., P.O. Box 671, Franklin, PA 16323. Oil Creek Plastics, Inc., P.O. Box 385, Titusville, PA 16354; Van Huffel Tube, Inc., Seneca Street, Oil City, PA 16301; Schaming Industries, Inc., 253 Washington St., Connoquenessing, PA 16027.

MC 156362 (Sub-II–1TA), filed June 8, 1981. Applicant: JAMES B. WOODS d.b.a. WOODS TRUCKING, 2444 Middle Ridge Rd., Amherst, OH 44001. Representative: Anthony E. Young, 29 South La Salle St., Suite 350, Chicago, IL 60603. *Metal and metal products* between Lorain, OH, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Servisteel Corporation for 270 days. Supporting shipper(s): Servisteel Corporation, 4920 French Creek Rd., Lorain, OH 44054.

MC 113300 (Sub-II–1TA), filed June 8, 1981. Applicant: WILLIAM T. HERRON TRUCKING, INC., Box 424, Marietta, OH 45750. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. *General commodities (except classes A and B explosives)* between points in OH and WV, on the one hand, and, on the other, points in MI, IN, KY, OH, WV, MD, DE, PA, NJ, NY, CT, MA, RI, VT, NH, ME, VA, NC, SC, and GA for 270 days. Restricted to service from and to the facilities of or used by Marietta Industrial Enterprises, Inc. Supporting Shipper: Marietta Industrial Enterprises, Inc., P.O. Box 525, Marietta, OH 45750.

MC 154758 (Sub-II–2TA), filed June 8, 1981. Applicant: HARRY J. MILLER, R.D. #4, Box 467, Williamsport, PA 17701. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. *Scrap Metal* between Lycoming, Northumberland & Clinton Counties, PA, on the one hand, and, on the other, points in OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Staiman Brothers, P.O. Box 1235, Williamsport, PA 17701.

MC 136343 (Sub-II–21TA), filed June 8, 1981. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Scrap paper* between those points in the U.S. in and east of Lower Peninsula MI, IN, KY, TN and GA for 270 days. Restricted to traffic originated by D C Intercel. An underlying ETA seeks 120 days authority. Supporting shipper: D C Intercel, Division of International Cellulose, 800 Jackson Street NE., Washington, DC 20017.

MC 148400 (Sub-II–5TA), filed June 8, 1981. Applicant: ORVILLE E. VAUGHAN AND KATHLEEN V. VAUGHAN, d.b.a. SUN VALLEY TANK LINES, 64 LaPorte Dr., Mars, PA 16046. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract; irregular: Baking soda, washing soda, oven cleaner, laundry detergent, sodium bicarbonate and sodium carbonate and materials, equipment and supplies used in the manufacture and distribution of said commodities* between Salt Lake City and Clearfield, UT and Green River, WY, on the one hand, and, on the other, points in the U.S. under a continuing contract(s) with Church & Dwight Co., Inc. of Piscataway, NJ for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Church & Dwight Co., Inc., P.O. Box 369, 20 Kings Bridge Rd., Piscataway, NJ 08854.

MC 146148 (Sub-II–3TA), filed June 8, 1981. Applicant: B-RIGHT TRUCKING CO., 7087 West Blvd., Suite 8, Youngstown, OH 44512. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Lumber and lumber products,* between ports of entry between the U.S. and Canada in the states of MI and NY on the one hand, and, on the other, points in the U.S., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Empire Wholesale Lumber Co., P.O. Box 249, Akron, OH 44309; 84 Lumber Co., P.O. Box 8484, Eighty-Four, PA 15330; Forest City Palevsky Corp., 5111 Richmond Rd., Cleveland, OH 44114; Busy Beaver Building Centers, Inc., 641 Alpha Dr., Pittsburgh, PA 15238; Inland

Wholesale Lumber, 601 Tallmadge Rd., Kent, OH 44240.

MC 151142 (Sub-II–4TA), filed June 8, 1981. Applicant: H & H TRANSPORTATION, INC., 1425 E. Main Street, Newark, OH 43055. Representative: H. Neil Garson, 3251 Old Lee Highway, Suite 400, Fairfax, VA 22030. Furniture upholstered, wooden, dual, purpose sleep furniture, polyethelene, fabric, and supplies used in the manufacture thereof. Between Kingston, PA on the one hand, and, on the other, points in IL, IN, MI and OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Nelson of Kingston, Inc., Division Street, P.O. Box 1046, Kingston, PA. 18704.

MC 135189 (Sub-II–1TA), filed June 8, 1981. Applicant: G. Wylie Blum, Richardson Ave., P.O. Box 197, Negley, OH 44441. Representative: John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219. *Contract; Irregular: Clay and carbonaceous materials,* between points in Columbiana County, OH on the one hand, and, on the other, points in Boyd County, KY, Baltimore County, MD and Lehigh and Northampton Counties, PA, under a continuing contract(s) with Metrel, Inc. of Negley, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Metrel, Inc., P.O. Box 176, Negley, OH 44441.

MC 139254 (Sub-II–24TA), filed June 8, 1981. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, Baker & Hostetler, 100 E. Board St., Columbus, OH 43215. Contract carrier irregular: *General commodities,* except classes A and B explosives, between pts in the US (except AK and HI) under continuing contract(s) with General Foods Corporation, of White Plains, NY for 270 days. Supporting shipper: General Foods Corporation, 250 North St., White Plains, NY 10625.

The following applications were filed in region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 121081 (Sub-3–8TA), filed May 14, 1981. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Pre stressed and pre cast concrete,* between Charlotte, NC, on the one hand, and, on the other, points in SC and VA. Supporting shipper: Exposaic Ind., Inc., P.O. Box 5445, Charlotte, NC 28225.

MC 135895 (Sub-3–26TA), filed May 14, 1981. Applicant: B & R DRAYAGE, INC. P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. *(1) Pulp, paper, and paper products; (2) rubber and plastic products; (3) containers; (4) chemicals and related products; (5) building materials and (6) materials, equipment and supplies used in the manufacture, assembly, sale and distribution of commodities described in (1) through (5) above:* between points in the U.S.; Restricted to traffic originating at or destined to facilities used by Georgia Pacific Corporation. Supporting shipper: Georgia Pacific Corporation, 320 Post Road, Darien, CT 06820.

MC 138308 (Sub-3–23TA), filed June 5, 1981. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *Metal products and ores and minerals* between Baltimore, MD, and, New York, NY, on the one hand, and, on the other, Hamburg, MI; and, between Detroit, MI, and Mt. Carmel, PA. Supporting shipper: Hoskins Manufacturing Company, 4445 Lawton Avenue, Detroit, MI 48208.

MC 110012 (Sub-3–6TA), filed May 14, 1981. Applicant: ROY WIDENER MOTOR LINES, INC., 707 North Liberty Hill Road, Morristown, TN 37814. Representative: Frank Batson, 707 North Liberty Hill Road, Morristown, TN 37814. *Furniture and fixtures* between Guilford County, NC, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): Dar/Ran Furniture Industries, Inc., 2402 Shore Drive, High Point, NC 27261.

MC 139006 (Sub-3–7TA), filed May 14, 1981. Applicant: RAPIER SMITH, Rural Route 5, Loretto Rd., Bardstown, Kentucky 40004. Representative: William P. Whitney, Jr. (same address as applicant). *Glass containers (one gallon or less in capacity),* from Memphis, TN and its commercial zone to points in AL, AR, GA, IL, KY, LA, MO, MS, NC, TN, restricted to traffic originating at the facilities utilized by Chattanooga Glass Company. Supporting shipper: Chattanooga Glass Co., 400 West 45th St., Chattanooga, TN 37410.

MC 145461 (Sub-3–2TA), filed May 14, 1981. Applicant: TENNESSEE-TEXAS EXPRESS, INC., P.O. Box 888, Gallatin, TN 37066. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *Furniture and fixtures and materials, equipment and supplies related to the manufacture thereof,* between Sumner County, TN and Fulton Count, GA on the one hand, and, on the other, points in the U.S. Supporting shippers: G. F. Business Equipment, Inc., Steam Plant Rd., Gallatin, TN 37066; Globe Business Furniture, Inc., 90 Volunteer Dr., Hendersonville, TN 37075; Crescent Manufacturing Co., Maple Street, Gallatin, TN 37066; Office Equipment Dist., Box 43467, Atlanta, GA 30336.

MC 153509, (Sub-3–12TA), filed May 18, 1981. Republication—Originally published in Federal Register of June 1, 1981, volume 46, No. 104. Applicant: KENTUCKY DISPATCH, INC., 3303 Camp Ground Rd., Louisville, KY 40216. Representative: James B. Murphy, Suite 102, Interchange Bldg., 835 West Jefferson St., Louisville, KY 40202. *General commodities, (except household goods as defined by the Commission, commodities requiring special equipment and commodities in bulk),* between Jeffersonville, IN, New Albany, IN and Louisville, KY, and their respective commercial zones, on the one hand, and, on the other, points in the U.S., except AK and HI. Supporting shipper: There are 22 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 155373 (Sub-3–1TA), filed May 28, 1981. Applicant: WASTE DISPOSAL, INC., 888 Freewill Road, Cleveland, TN 37311. Representative: Benny J. Green (same as above). *Contract carrier;* irregular routes; *Hazardous waste,* from Chattanooga, TN to Columbia, SC, under a continuing contract with Velsicol Chemical Corporation. Supporting shipper: Velsicol Chemical Corporation, 4902 Central Avenue, Chattanooga, TN. 37410.

MC 145330 (Sub-3–1TA), filed June 5, 1981. Applicant: GILMER ALLISON, d.b.a. ALLISON TRUCKING, Rt. 3, Box 123A, Lawndale, NC 28090. Representative: W. G. Reese III, 315 W. Victoria, Gardena, CA 90248. *Foodstuffs and supplies used in the manufacture thereof exempting those which are are transported in bulk, or those requiring mechanical refrigeration.* Between points and places in continental U.S. restricted to traffic originating from or destined to the facilities of Carnation Company Statesville, NC. Supporting shipper: Carnation Company, P.O. Box 5336 Statesville, NC 28677.

The following applications were filed in region 4: send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 156357 (Sub-4–1TA), filed June 3, 1981. Applicant: KIM OLSON, an individual, d.b.a. NORTH STAR SUPPLY CO., 2148 Bunker Lane Blvd., Anoka, MN 55303. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Dry*

cleaning and laundry materials, equipment and supplies, from points in MO, IN, IL, WI and OH to Minneapolis and Duluth, MN and Eau Claire, WI, and points in the commercial zones of these points. Supporting shipper: E. Weinberg Supply Co., Inc., 3119 Lynn Avenue, Minneapolis, MN 55416.

MC 144370 (Sub-4–4TA), filed June 5, 1981. Applicant: DON NASS TRUCKING, INC., 210 Front Street, Clinton, WI 53525. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, WI 53705. (1) *Carbonated beverages*, (a) from Hazelwood, MO to Chicago and Rockford, IL; Janesville, Madison and Milwaukee, WI; and points in their respective commercial zones; (b) from Janesville, WI to Northfield, Albert Lea, Minneapolis, St. Paul, and Duluth, MN; Chicago, Freeport and Rockford, IL; and points in their respective commercial zones; and (2) *Non-carbonated canned beverages*, (a) from Milwaukee, WI to Northfield, Albert Lea, Minneapolis, St. Paul, and Duluth, MN; and points in their respective commercial zones; and (3) *Empty containers* from Chicago, IL and points in its commercial zone, to Janesville, WI. An underlying ETA seeks 120 day authority. Supporting shipper, Daniel J. Schuette, d/b/a/ Independent Beverage Marketing, 5840 Winchester Avenue, Marshall, WI 53559.

MC 156359 (Sub-4–1TA), filed June 5, 1981. Applicant: HARBOR CARTAGE, INC., 312 W. End, Detroit, MI 48209. Representative: Alex J. Miller, 555 S. Woodward, Suite 512, Birmingham, MI 48011. *Contract irregular self contained room air-conditioners* between Hillsdale County, and Wayne County, MI. RESTRICTED to shipments having a prior or subsequent movement by rail. Under a continuing contract with the York Division, Borg Warner Corporation. Supporting shipper: York Division, Borg Warner Corporation, York, Penna. 17405.

MC 155992 (Sub-4–1TA), filed June 1, 1981. Applicant: B. J. LEBEL TRUCKING, P.O. Box 256, Val Therese, ONT. POM 3BO. Representative: Michael D. Combs, P.O. Box 473, Gaylord, MI 49735. *Lumber* from all points in USA/Canada border to all points in MI. Supporting shippers: Georgia-Pacific, Inc., P.O. Box 105040, Atlanta, GA 30348.

MC 156350 (Sub-4–1TA), filed June 5, 1981. Applicant: LOU'S DELIVERY SERVICE, INC., 190 W. Old Higgins Road, Des Plaines, IL 60018. Representative: Joel H. Steiner, 39 South LaSalle, Suite 600, Chicago, IL 60603. *General commodities (except classes A & B explosives)*, between Chicago, IL and Milwaukee, WI and points in their respective commercial zones, over the following regular routes: From Chicago, IL over U.S. Hwy. 41 to junction U.S. Hwy. 41 and IL Hwy. 173, then over IL Hwy. 173 to the junction of IL Hwy. 173 and WI Hwy. 32, the over WI Hwy. 32 to Milwaukee, WI, and return over the same route; from Chicago, IL over I–94 to Milwaukee, WI and return over the same route. Service is authorized at all intermediate points on the above routes. Applicant seeks authority to interline freight at Chicago, IL and Milwaukee, WI. Supporting shippers: East West Shippers Association, 414 Plaza Drive, Westmont, IL 60659 and Oster-Division of Sunbeam Corporation, 505 N. Lydell Avenue, Milwaukee, WI 53217.

MC 156252 (Sub-4–1TA), filed June 5, 1981. Applicant: JERRY GREEN, d/b/a GREEN TRANSPORT, P.O. Box 4, Roanoke, IN 46783. Representative: Charles W. McNagny, P.O. Box 2263, Third Floor Lincoln Bank, Fort Wayne, IN 46801. Contract irregular *Food and related products, and pulp paper and related products* between points in the U.S., under a continuing contract or contracts, with supporting shipper Kraft, Inc., Dairy Group of Huntington, IN.

MC 156360 (Sub-4–1TA), filed June 5, 1981. Applicant: BIRKS TRANSPORTATION CO., 9 N Hickory St, Arlington Heights, IL 60004. Representative: Robert E. Birks (same address as applicant). (1) *Paper, Computer Print Outs*, from Des Plaines, IL. to Milwaukee, WI. (2) *Small appliance parts*, from Milwaukee, WI, to Chicago, IL. Supporting shippers: Financial Data Systems, 733 Lee St., Des Plaines, IL. 60016; Oster Corp., 5055 N. Lydell Ave., Milwaukee, WI. 53217.

MC 156347 (Sub-4–1TA), filed June 8, 1981. Applicant: TOOTSIE RILL EXPRESS, INC., 7401 South Cicero Ave., Chicago, IL 60629. Representative: Edward G. Bazelon, 39 South La Salle St., Chicago, IL 60603. *Contract:* irregular, *food and related products*, between Chicago, IL, on the one hand, and, on the other, all points in the U.S. under contract with Tootsie Roll Industries, Inc., for 270 days. An underlying ETA seeks 120-day authority. Supporting shipper: Tootsie Roll Industries, Inc., 7401 South Cicero Ave, Chicago, IL 60629.

MC 151181 (Sub-4–3TA), filed June 5, 1981. Applicant: DAKOTA TRANSPORT, INC., Box 115, Fort Pierre, S.D. 57532. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, D.C. 20036. *Contract; Irregular, Beer, empty containers and related advertising and promotional materials* between points in S.D. on the one hand, and on the other, points in MN, MO, TX, WS, TN and CA, for the account of Ellwein Brothers Inc., Pierre, S.D. for 270 days. An underlying *ETA seeks 120 day authority*. Supporting shipper: Ellwein Bros. Inc., 401 West Dakota, Pierre, SD 57501.

MC 111496 (Sub-4–6TA), filed June 4, 1981. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. *Contract*, irregular: *General commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the U.S., under a continuing contract(s) with the Port of Seattle. Supporting shipper: Port of Seattle, P.O. Box 1209, Seattle, WA 98111.

MC 145505, filed June 5, 1981. Applicant: IRISH TRANSPORTATION, INC., 8007 South Meridian Street, Indianapolis, IN 46227. Representative: Warren C. Moberly, Harrison & Moberly, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204, (317) 639–4511. *Buses, bus parts and chassis, new and used*, in driveaway, truckaway or towaway movement, (1) between points in Faulkner County, AR, on the one hand, and, on the other, (2) all points in the U.S. (except AK & HI). Supporting shipper: American Transportation Corporation, Highway 65 South, Conway, AR 72032.

MC 153829 (Sub-4–22TA), filed June 5, 1981. Applicant: UNITED SHIPPING COMPANY, P.O. Box 21186, St. Paul, MN 55121. Representative: James E. Ballenthin, 630 Osborn Bldg., St. Paul, MN 55102. *Machinery and materials, equipment and supplies used in the manufacture thereof*, between the facilities of Dynamic Industries, Inc. at or near Barnesville, MN, on the one hand, and, on the other, points in the U.S. Supporting shipper: Dynamic Industries, Inc., P.O. Box 466, 201 West Main Avenue, Barnesville, MN 56513

MC 156344 (Sub-4–4TA), filed June 5, 1981. Applicant: Clyde Mills d.b.a. Mills Distributing, Box 265, Hurley, SD 57036. Representative: A. J. Swanson, Quaintance & Swanson, P.O. Box 1103, 226 North Phillips Avenue, Sioux Falls, SD 57101. Contract; irregular; *Salt, salt products, materials, and supplies* used in the manufacture, packaging and distributing of salt and salt products, between points in IA, KS, MN, NE, ND, SD, UT, and WI under a continuing contract or contracts with Cargill, Incorporated, Salt Division. Supporting shippers: Cargill, Incorporated, Salt Division, P.O. Box 5621, Minneapois, MN 55440.

MC 156345 (Sub-4–1TA), filed June 3, 1981. Applicant: ELK EXPRESS LINES, LTD., 5542 Angling Road, MI Portage, 49003. Representative: Ms. Vicki J. Elkins, 5542 Angling Road, Portage, MI 49003. *Gneral Commodities (except Commodities* Transported in Bulk, from, to, or between the following points or described area: Between points within a 500 Mile radius of the Corporate office of Elk Express Lines, LTD in Kalamazoo, MI From, To and Between the States of IN, IL, IA KY, MD, MI, MN, MO, NY, OH, PA, TN, WV, and WI. Supporting shipper: There are more than (6) Supporting shippers.

MC 156349 (Sub-4–1TA), filed June 5, 1981. Applicant: EFFECTIVE TRUCKING, INC., 2310 Jones Place, Bloomingtin, MN 55431. Representative: Stanley C. Olsen, Jr., 5200 Willson Road, Suite 307, Minneapolis, MN 55424. *Chemicals and related products, ores and minerals,* between points in Minneapolis, MN, Cleveland, OH, Dallas, TX, and San Francisco, CA, and points in their respective commercial zones, and points in WY, on the one hand, and, on the other, points in the U.S. under continuing contracts with Effective Building Products, Inc. Supporting shipper: Effective Building Products, Inc., 2950 Metro Drive, Bloomington, MN 55420.

MC 140615 (Sub-4–6TA), filed June 5, 1981. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (same as applicant). *Rubber and Plastic Products, Metal Products and materials and supplies used in the manufacture and distribution of Rubber and Plastic Products, Metal Products* between points in the U.S. Supporting shipper: Mid West Plastics, Inc. North St. Pembine, WI 54156.

MC 128927 (Sub-4–4TA), Filed June 5, 1981. Applicant: MARTIN TRUCKING COMPANY, INC., Box 406, Toro Road, Tomah, WI 54660. Representative: James A. S piegel, Attorney, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719. *Malt beverages and related advertising materials, premiums, and dispensing equipment in mixed loads with malt beverages* from the facilities of the Joseph Schlitz Brewing company at Memphis, TN, to Hartland, La Crosse, and Sparata, WI. An underlying Eta seeks 120 days authority. Supporting shippers: Don Kerr, Inc., 550 Industrial Drive, Hartland, WI 53029; La Crosse Distributing Company, Inc., 2008 Oak Street, La Crosse, WI 54601; and Bottled Beverage, Inc., 204 Milwaukee Street, Sparta, WI 54656.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 115669 (Sub-5–14TA, Filed June 8, 1981. Applicant: DAHLSTEN TRUCK LINE, INC., P.O. Box 95, Clay Center, NE 68933. Representative: Vayle Hayes (same address as applicant). *Food and Related products,* between pts in AR, CO, IA, KS, MO, NE, OK & SD. Supporting shipper: Cereal Food Processors, Inc., P.O. Box 11336, Kansas City, MO 64112.

MC 116077 (Sub-5–12TA), filed June 8, 1981. Applicant: DSI TRANSPORTS, INC., 5851 San Felipe, Suite 800, Houston, Texas 77057. Representative: J. C. Browder, Traffic Manager, DSI Transports, Inc., 5851 San Felipe, Suite 800, Houston, Texas 77057. *Propylene, in bulk, in tank vehicles, from Norco, Louisiana to Brunswick, Georgia.* Supporting shipper: Hercules, Incorporated, 3169 Holcomb Bridge Road, Suite 301, Norcross, Georgia 30071.

MC 116127 (Sub-5–1TA), filed June 8, 1981. Applicant: GEORGE D. CYRUS, INC., R.F.D. 1, Iola, KS 66749. Representative: Charles H. Apt, P.O. Box 328, Iola, KS 66749. Contract; Irregular. *Petroleum products in packages or containers,* from pts in KS and the KC-KS—KC-MO Commercial Zone as defined by the ICC to pts in MO on and East of a line beginning at the MO-IA State Boundary line near Lancaster, MO., and extending southerly along U.S. Hwy 63 to the junction with U.S. Hwy 60 near Cabool, MO., thence westerly along U.S. Hwy 60 to the junction with U.S. Hwy 65 near Galloway, MO., and thence southerly along U.S. Hwy 65 to the MO-AR State boundary line near Ridgedale, MO. Supporting shipper: Phillips Petroleum Company, 826 Adams Bulding, Bartlesville, OK 74004.

MC 135691 (Sub-5–21TA), filed June 8, 1981. Applicant: DALLAS CARRIERS CORP., P.O. Box 38528, Dallas, TX 75228. Representative: Robert L. Baker, Sixth Floor, United American Bank, Nashville, TN 37219. *Chemicals and related products* from points in NJ and Palmerton, PA, to points in the U.S. Supporting shipper: Gulf + Western Industries, Inc., One Commerce Place, Nashville, TN 37239.

MC 139973 (Sub-5-8TA), filed June 6, 1981. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. *(1) such commodities as are dealt in by manufacturers or distributors of electrical equipment, mechanical devices or telecommunications equipment, and (2) parts, materials and supplies used in the manufacture, sale or distribution of the commodities in (1) above,* between Lawrenceburg, KY, on the one hand, and, on the other, Dallas and Irving, TX; Merriam, KS; and Sacramento and Hayward, CA. Supporting shipper: Reliance Electric Company, Highway 127 North, Lawrenceburg, KY 40342.

MC 142508 (Sub-5–53TA), filed June 8, 1981. Applicant: NATIONAL TRANSPORTATION, INC., P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE. 68137. *Food and related commodities* between NY, PA and Pts in the U.S. Supporting shipper: P. J. Schmitt Company, 678 Bailey Ave., Buffalo, NY 14240.

MC 144117 (Sub-5–9TA), filed June 8, 1981. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Bernard J. Kompare, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. *Such commodities as are dealt in by manufacturers of shelving storage systems,* from Pts in Morgan County, IL, to Pts in MN, IA, MO, AR, LA, ND, SD, NE, KS, OK, and TX. Supporting shipper: Lundia Meyers Industries, Inc. Jacksonville, IL.

MC 146457 (Sub-5–4TA), filed June 8, 1981. Applicant: PAISLEY TRUCKING, INC., P.O. Box 208, Durango, IA 52309. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309. *Malt beverages,* from the facilities of Joseph S. Pickett & Sons at Dubuque, IA to Pts in IL, IN, MI, MN, TN, and WI. Supporting shipper(s): Joseph S. Pickett & Sons, Inc., East Fourth Street Extension, Dubuque, IA 52001.

MC 149235 (Sub-5–7TA), filed June 8, 1981. Applicant: C. MAXWELL TRUCKING CO., INC., 9108 Reeds Drive, Overland Park, KS 66207. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. Contract Irregular *general commodities (except household goods as defined by the Commission, Classes A and B explosives and hazardous materials),* between Jackson County, MO, on the one hand, and, on the other, pts in WY, CO, KS, UT, CA, TX, OR, WA, NM, and AZ. Supporting shipper: Gordon Corporation, 1208 W. 12th Street, Kansas City, MO 64105.

MC 151753 (Sub-5–3TA), filed June 8, 1981. Applicant: M. W. CYCLE HAULER, INC., 11909 Santa Fe Drive, Lenexa, KS 66215. Representative: Clyde

N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Plastic food containers and lids,* between the Kansas City, KS-Kansas City, MO Commercial Zone on the one hand and the Commercial Zones of Baton Rouge, LA; Houston, TX; Atlanta, GA; Baltimore, MD; Detroit, MI and Los Angeles, CA and pts in SC on the other hand. Supporting shipper: Sunset Plastic Products, Inc., 11800 W. 85th St., Lenexa, KS 66215.

MC 151753 (Sub-5–4TA), filed June 8, 1981. Applicant: M. W. CYCLE HAULER, INC., 11909 Santa Fe Drive, Lenexa, KS 66215. Representative: Clyde N. Christey, Ks Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Rubber and miscellaneous plastic products and raw plastics,* between the Kansas City, KS-Kansas City, MO Commercial Zone on the one hand and pts in the Houston, TX; Dallas, TX; Springfield, IL; Columbus, OH; Chicago, IL; Baton Rouge, LA; Corbin KY and Los Angeles CA Commercial Zones on the other hand. Supporting shipper: Mid-American Plastic Color, Inc., 14881 W. 99th St., Lenexa, KS 66214.

MC 156299 (Sub-5–1TA), filed June 8, 1981. Applicant: BILL HILL, d.b.a. HILL TRUCKING, 104 Castle Avenue, Paragould, AR 72450. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201. *(1) Shock Absorbers and (2) Materials, Equipment and Supplies used in the manufacture of Shock Absorbers,* between Paragould, AR and points in CA, GA, NE, and VA. Supporting shipper: Monroe Auto Equipment Co., International Drive, Monroe, MI 48161.

MC 156348 (Sub-5–1TA), filed June 8, 1981. Applicant: MICHAEL J. BOYER, d.b.a. M. J. BOYER TRUCKING, 10016 W. 70th Terrace, Merriam, KS 66203. Representative: Alex M. Lewandowski, 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. *Pulp, paper, printed materials and related products and waste and scrap materials (except hazardous materials),* between Jackson, Clay and Platte Counties, MO and Wyandotte and Johnson Counties, KS, on the one hand, and, on the other, pts in KS, NE, IA, OK, AR, MO, and TX. Supporting shipper: Western Container Co., Inc., 4323 Clary Blvd., Kansas City, MO 64130.

MC 156379 (Sub-5–1TA), filed June 8, 1981. Applicant: RONALD HAGEMAN, d.b.a. HAGEMAN ENTERPRISES, R.R. No. 1 Box 259–22, Keokuk, IA 52632. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Mobile Homes, Modular Units, Modular Carriages and Sectional Units,* between pts in IA, IL, and MO. Supporting shippers: 7 shippers.

MC 156381 (Sub-5–1TA), filed June 8, 1981. Applicant: BIG O' TRUCKING, INC., P.O. Box 668, Van Buren, AR 72956. Representative: Don Garrison, Esq., P.O. Box 1065, Fayetteville, AR 72956. *Metal Pickup Tool Boxes and Materials, Equipment and Supplies* used in the manufacture thereof. Between the facilities of Storall Manufacturing Company, Inc., at or near Jonesboro, AR, on the one hand, and, on the other, points in and west of CO, NM, MT, and WY. Supporting shipper: Storall Manufacturing Company, Inc., P.O. Box 2337, Jonesboro, AR 72401.

MC 156387 (Sub-5–1TA), filed June 8, 1981. Applicant: JIM L. LANGENFELD, d.b.a. D & J ENTERPRISES, Rural Route No. 2, Dow City, IA 51528. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Meats and packinghouse products,* from pts in Crawford County, IA to Chicago, Kankakee, Peoria, Rockford, and Springfield, IL; Kansas City and Wichita, KS; Minneapolis-St. Paul, MN; St. Joseph, St. Louis, and Springfield, MO; Lincoln, NE; and Appleton, Kenosha, Milwaukee and Superior, WI (and pts in their respective commercial zones). Supporting shipper: Dubuque Packing Co., P.O. Box 610, Denison, IA 51442.

James H. Bayne,
Acting Secretary.

[FR Doc. 81–17948 Filed 6–16–81; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated 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 service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the applications later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Vol. No. OPY–3–094

Decided: June 11, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams (Fisher not participating).

MC 67485 (Sub-22), filed May 4, 1981. Applicant: TEXAS TEX-PACK EXPRESS, INC., P.O. Box 9325, San Antonio, TX 78204. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768, (512 476–6083. 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 150754 (Sub-3), filed June 3, 1981. Applicant: A B C TRANSFER INC., 65 East Thomas Ave., Baltimore, MD 21225. Representative: Ronald W. Hebb, 3541 Newland Rd., Baltimore, MD 21218, (301) 760–1217. Transporting for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret material, and sensitive weapons or munitions) between points in the U.S.

MC 156244, filed May 18, 1981. Applicant: UNITED INTERMODE, INC., One United Drive, Fenton, MO 63026. Representative: B.W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, (314) 727–0777. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 156305, filed June 2, 1981. Applicant: CLIFTON C. JAMISON, R.D. #2, Box 236, Jersey Swamp Rd., West Chazy, NY 12992. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Vol. No. OPY–4–193

Decided: June 11, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher,and Williams.

MC 147326 (Sub-2), filed June 1, 1981. Applicant: NEWPORT AIR FREIGHT INC., Airport Rd., Newport, VT 05855. Representative: Duane C. Wright (same address as applicant), (802) 334–2613. 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.

James H. Bayne,

Acting Secretary.

[FR Doc. 81-17927 Filed 6-16-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated 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 opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

James H. Bayne

Acting Secretary.

Note.—All applications are for authority to operate as as 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. OPY–4–192

Decided: June 11, 1981.

MC 129326 (Sub-39), filed June 1, 1981. Applicant: CHEMICAL TANK LINES, INC., Bonnie Mine RD, P.O. Box 437, Mulberry, FL 33860. Representative: Charles A. Webb, Suite 1111, 1828 L St. N.W., Washington, DC 20036, (202) 296–2929. Transporting *commodities in bulk*, between points in the U.S. under continuing contract(s) with International Minerals and Chemical Corporation of Mundelein, IL.

MC 150816, filed May 29, 1981. Applicant: HUGHES TRANSIT, INC., P.O. Box 352, Owensboro, KY 42301. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–7900. Transporting *passengers and their baggage*, in the same vehicle, in special and charter operations, beginning and ending at points in Daviess, Henderson, Hopkins, Hancock, McLean and Ohio Counties, KY and Spencer County, IN, and extending to points in the U.S., including AK but excluding HI.

MC 156246, filed June 1, 1981. Applicant: NORTH CENTRAL MOTOR CLUB, d.b.a. AAA WORLD WIDE TRAVEL AGENCY, 1 E. Sixth Ave., S. Williamsport, PA 17701. Representative: Neil K. Feerrar (same as applicant) (717) 323–8431. To engage in operations, in interstate or foreign commerce as a *broker*, at S. Williamsport, PA in arranging for the transportation, by motor vehicle, of *passengers and their baggage* in special or charter operations, between points in the U.S., including AK and HI.

Volume No. OPY–4–194

Decided: June 11, 1981.

MC 144606 (Sub-20), filed June 1, 1981. Applicant: DUNCAN & SON LINES, INC., 714 East Baseline Rd., Buckeye, AZ 85326. Representative: Donald W.

Powell, 4150 North 12th St., Phoenix, AZ 85014, (602) 241-0777. Transporting *rubber and plastic products*, between points in AZ, on the one hand, and, on the other, points in ID, MT, OK, OR, UT, WA, and WY.

MC 144906 (Sub-4), filed June 1, 1981. Applicant: NORTH OPERATING COMPANY, a Corporation, 39 Little Brook Rd., Springfield, NJ 07081. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10582, (914) 835-4411. Transporting *such commodities* as are dealt in or used by grocery or department stores, between points in the U.S., under continuing contract(s) with Grand Union, of Elmwood Park, NJ.

MC 144986 (Sub-4), filed June 1, 1981. Applicant: STAHLER TRUCKING & LEASING, INC., 208 E. Harrison St., Wapakoneta, OH 45895. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43112, (614) 481-8821. Transporting *animal feed, and animal feed ingredients*, between Auglaize County, OH, on the one hand, and, on the other, points in the U.S.

MC 146756 (Sub-6), filed June 2, 1981. Applicant: WAGNER TRUCKING, INC., 6585 Dawn Way, Inver Grove Heights, MN 55075. Representative: Stanley C. Olsen, Jr., 5200 Wilson Rd., Suite 307, Minneapolis, MN 55424, (612) 927-8855. Transporting *metal products*, between points in MN, IA, WI, IL, IN, MI, and OH.

MC 147196 (Sub-15), filed June 1, 1981. Applicant: ECONOMY TRANSPORT, INC., P.O. Box 50262, New Orleans, LA 70150. Representative: Fletcher W. Cochran, P.O. Box 741, Slidell, LA 70459, (504) 641-7630. Transporting *metal products*, between points in the U.S., under continuing contract(s) with Shamrock Tubular Products, Inc., of Houston, TX, and Gulf Coast Wire Rope, Inc., of Pasadena, TX

MC 147536 (Sub-34), filed June 2, 1981. Applicant: D. L. SITTON MOTOR LINES, INC., P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton (same address as applicant) (417) 782-2800. Transporting *charcoal and charcoal products*, between points in Dent Count, MO, on the one hand, and, on the other, points in the U.S.

MC 147746 (Sub-2), filed June 2, 1981. Applicant: TRI-UNION EXPRESS, INC., 3680 179th St., Hammond, IN 46323. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682-8154. Transporting *metal products*, between points in the U.S.

MC 148366, filed June 1, 1981. Applicant: STRAIN'S BUS CO., INC., 2450 30th Ave., SE., Rochester, MN 55901. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *passengers and their baggage* in special and charter operations, beginning and ending at points in Anoka, Carver, Dakota, Dodge, Fillmore, Goodhue, Hennepin, Houston, Olmsted, Ramsey, Scott, Wabasha and Washington, Counties, MN, and extending to points in the U.S., including AK, but excluding HI.

MC 150546 (Sub-2), filed June 2, 1981. Applicant: S-J TRANSPORTATION CO., E. Millbrooke Ave., P.O. Box 91, Woodstown, NJ 08098. Representative: S. H. Jones, Jr. (same address as applicant), (609) 769-2741. Transporting (1) *waste materials*, between points in AZ, CA, CO, ID, IA, KS, MN, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, and WY; (2) *soap products*, between points in Camden County, NJ, on the one hand, and, on the other, points in NY, PA, MD, VA, TN, and IL, and (3) *commodities in bulk*, between points in Salem County, NJ, on the one hand, and, on the other, points in NY, CT, PA, MD, DE, NC, VA, WV, TN, OH, and IL.

Volume No. OPY-4-195

Decided: June 11, 1981.

MC 29886 (Sub-386), filed May 6, 1981, and published in the **Federal Register** issue of May 29, 1981, and republished this issue. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Ave., Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005, (202) 347-3987. Transporting *machinery and metal products*, between the facilities of Clark Equipment Company or its customers or suppliers at points in the U.S., on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this republication is to correctly reflect the territorial description.

MC 154206, filed June 1, 1981. Applicant: DELMAR DONLEY, INC., R.R. #1, Sherman, IL 62702. Representative: Edward D. McNamara, Jr., 907 S. Fourth St., Springfield, IL 62703, (217) 528-8476. Transporting *coal*, between points in Macon County, IL, on the one hand, and, on the other, points in IN.

MC 154756, filed June 2, 1981. Applicant: THE GATEWAY DELIVERY, INC., 1 Saratoga Ct., Nanuet, NY 10954. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835-4411. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with H. Muehlstein & Co., Inc. of Greenwich, CT, BSR (USA) Ltd. of Blauvelt, NY and Nepera Chemical Co., Inc. of Harriman, NY.

MC 155266 (Sub-1), filed June 3, 1981. Applicant: JOHN J. VETERI, P.O. Box 624, West Paterson, NJ 07424. Representative: John J. Veteri (same address as applicant) (201) 785-8775. Transporting *chemicals and related products*, between points in Hudson and Middlesex Counties, NJ, on the one hand, and, on the other, points in the U.S.

MC 155916, filed June 1, 1981. Applicant: ARDMORE FARMS, INC., P.O. Box 183, De Land, FL 32720. Representative: William P. Jackson Jr., P.O. Box 1240, Arlington, VA 22210, (703) 525-4050. Transporting *food and related products*, between points in Bergen County, NJ on the one hand, and, on the other, points in the U.S. in and east of WI, IL, MO, AR and LA.

MC 156136, filed June 1, 1981. Applicant: RAY KING TRANSPORATION, 229 Cadwell Rd., Pittsfield, MA 01201. Representative: Jack L. Schiller, 502 Flatbush Ave., Brooklyn, NY 11225, (212) 941-9291. Transporting (1) *such commodities* as are dealt in by toy and hobby stores, and (2) *paper and paper products*, between points in the U.S., under continuing contract(s) with Kay Bee Toy & Hobby Shops, Inc. of Lee, MA and Boyd Converting Company, Inc. of Richmond, MA.

MC 156276, filed June 1, 1981. Applicant: TOTRAN TRANSPORT, INC., P.O. Box 217, Mills, NY 82644. Representative: Irene Warr, 311 S. State Street, Suite 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting (1) *lumber and wood products*, (2) *building materials*, (3) *metal products*, (4) *Mercer commodities* and (5) *those commodities* which because of their size or weight require the use of special handling or equipment, between points in and west of ND, SD, NE, KS, OK and TX.

Volume OPY-4-196

Decided: June 11, 1981.

MC 61016 (Sub-61), filed June 1, 1981. Applicant: PETER PAN BUS LINES, INC., 1776 Main St., Boston, MA 01103. Representative: Ronald W. Malin, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701, (716) 664-5210. To engage in operation, in interstate or foreign commerce for the transportation of *passengers and their baggage*, in charter operations, between points in the U.S., under continuing contract(s) with Peter Pan World Travel, Inc., of Springfield, MA.

MC 76266 (Sub-148), filed June 3, 1981. Applicant: ADMIRAL-MERCHANTS MOTOR FREIGHT, INC., 215 S. 11th St., Minneapolis, MN 55403. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118, (612) 457–6889. Transporting *machinery*, between the facilities of The King Company and King National, Inc., at points in Steele County, MN, on the one hand, and, on the other, points in the U.S.

MC 117786 (Sub-136), filed June 1, 1981. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 247–5992. Transporting *such commodities* as are dealt in or used in welding and the manufacture of welding equipment and supplies, between points in Miami County, OH, on the one hand, and, on the other, points in the U.S.

MC 123476 (Sub-65), filed June 1, 1981. Applicant: CURTIS TRANSPORT, INC., 23 Grandview Industrial Ct., Arnold, MO 63010. Representative: David G. Dimit (same address as applicant), (314) 464–1300. Transporting *paper products*, between Richmond, VA, and points in St. Clair County, IL and Kalamazoo County, MI, on the one hand, and, on the other, those points in the U.S. on and east of U.S. Hwy 85.

MC 117786 (Sub-137), filed June 1, 1981. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014, (602) 264–4891. Transporting *plastic articles*, between the facilities of Thompson Industries Co., at points in VA, CA, IL, TX, MO, NH, OH, AZ, WA, LA, GA, NJ, and FL., on the one hand, and, on the other, points in the U.S.

MC 134156 (Sub-3), filed June 1, 1981. Applicant: AL SALEM, d.b.a. AL SALEM PRODUCE, 5136 Cherokee Hill Dr., Salem, VA 24153. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting (1) *chemicals and related products*, between the facilities of Pecora Corporation, at or near Atlanta, GA, Dallas, TX, and Philadelphia, PA, on the one hand, and, on the other, points in the U.S., (2) (a) *leather and leather products*, and (b) *rubber and plastic products*, between the facilities of Dentex Shoe Corporation, at points in Webb County, TX, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS, and (3) *food and related products*, between the facilities of Frankford Candy and Chocolate Company, at Philadelphia, PA, on the one hand, and, on the other, points in the U.S.

MC 135936 (Sub-35), filed June 1, 1981. Applicant: C & K TRANSPORT, INC., Box 205, Webster City, IA 50595. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309, (515) 245–4300. Transporting *food and related products*, between points in Fremont, Webster, Polk, Hamilton, Dallas, Tama, Marshall, Linn, Woodbury, and Hardin Counties, IA, on the one hand, and, on the other, points in AR, CO, CT, DE, IL, IN, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, ND, OH, PA, RI, TN, VT, VA, WV, WI, and DC.

MC 142976 (Sub-9), filed June 1, 1981. Applicant: JOHN D. PERFETTI, R.D. #4, Box 2 5C, Blairsville, PA 15717. Representative: Eugene A. Waszkiewicz, P.O. Box 8315, Pittsburgh, PA 15218, (412) 469–0333. Transporting (1) *iron and steel articles*, and (2) *machinery*, between points in the U.S., under continuing contract(s) with Scott Forge Inc., Co., of Springrove, IL.

MC 143066 (Sub-2), filed May 28, 1981. Applicant: B.G.M. TRUCKING, INC., 12634 E. Freeway, Houston, TX 77015. Representative: Timothy Mashburn, 1806 Rio Grande, Austin, TX 78768, (512) 476–6391. Transporting *general commodities* (except Classes A and B explosives), between points in the U.S., under continuing contract(s) with Mims Meat Company, Inc.

MC 156306, filed June 3, 1981. Applicant: SHIPPER'S CHOICE CORPORATION, Pittsburgh National Bank Bldg., Pittsburgh, PA 15222. Representative: Ben Cotten, 1899 L. Street, NW., Washington, DC 20036, (202) 659–9505. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of ND, SD, CO, NE, OK, and TX.

[FR Doc. 81-17928 Filed 6-16-81; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OPI-174]

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Decided: June 10, 1981.

The following applications, filed on or after February 9, 1981, are governed by Special Rule 251 of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation arrive or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we fine, preliminarily, that each appliant 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 service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority the duplication shall be

construed as conferring only a single operating right.

By the Commission, Review Board No. 1. Members Parker, Chandler and Fortier.

James H. Bayne,

Acting 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 156340, filed June 5, 1981. Applicant: VALLEY GRAIN CO., TRKG., P.O. Box 299, Browns Valley, MN 56219. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440 (612) 542–1121. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 156351, filed June 1, 1981. Applicant: WILSON TRUCKING, 3412 9th Avenue, Council Bluffs, IA 51501. Representative: James F. Crosby, 7363 Pacific St., Oak Park Office Bldg., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle, in such vehicle, between points in the U.S.

[FR Doc. 81-18023 Filed 6-16-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OPI-173]

Motor Carrier; Permanent Authority Decisions; Decision-Notice

Decided: June 10, 1981.

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed sevice 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 requiements of Title 49, subtitle VI, 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 opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No.1. Members Parker, Chandler and Fortier.

James H. Bayne,

Acting 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-316), filed June 4, 1981. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: William E. Christensen (same address as applicant), (402) 339–3003. Transporting *building materials*, between the facilities of Delta Steel Buildings Company and its subsidiaries, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 87451 (Sub-6), filed June 5, 1981. Applicant: CARGO TRANSPORT, INC., 91 Mountain Rd., Burlington, MA 08103. Representative: Sumuel A. Bithoney, Jr. (same address as applicant), (617) 628–1600. Transporting *lumber and wood products*, between points in the U.S., under continuing contract(s) with (a) L. R. McCoy & Co., Inc., of Worcester, MA, (b) Shepard & Morse Lumber Co., of Weston, MA, and (c) Furman Lumber, Inc., of Boston, MA.

MC 107110 (Sub-8), filed June 4, 1981. Applicant: B & D TRANSFER, INC., P.O Box 133, Liberty, PA 16930. Representative: David A. Sutherland, 1150 Connecticut Ave., NW, Suite 400, Washington, DC 20036, (200) 452–6800. Transporting *general commodities* (except classes A and B explosives), between points in MD, NY, OH and PA, on the one hand, and, on the other, points in CT, DE, NH, NJ, NY, MD, MA, OH, PA, RI, VT, VA, WV and DC.

MC 117201 (Sub-55), filed June 1, 1981. Applicant: INTERSTATE DISTRIBUTOR CO., a corporation, 8311 Durango S.W., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055 (206) 228–3807. Transporting *food and related products*,between points in the U.S., under continuing contract(s) with American Salt Company, of Kansas City, MO.

MC 117370 (Sub-45), filed June 4, 1981. Applicant: STAFFORD TRUCK..iG, INC., 2155 Hollyhock Lane, Elm Grove, WI 53122. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705, (608) 238–3119. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Peck Meat Packing Corporation of Milwaukee, WI.

MC 134790 (Sub-8), filed June 3, 1981. Applicant: DANIEL C. HAFFNER, d.b.a. HAFFNER TRUCKING SERVICE, R.R. #1 Farmington, IA 52626. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244–2329. Transporting *metal products*, between points in Des Moines County, IA, on the one hand, and, on the other, points in the U.S.

MC 135640 (Sub-17), filed June 1, 1981. Applicant: STALEY EXPRESS, INC., 2501 North Brush College Road, Decatur, IL 62526. Representative: Charles Carnahan, Jr. (same address as applicant) (217) 422–2111. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of U.S. Hwy 85.

MC 138000 (Sub-91), filed May 29, 1981. Applicant: ARTHUR H. FULTON, INC., PO Box 99, Stephens City, VA 22655. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., PO Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *lighting products, and materials, equipment and supplies* used in the manufacture or distribution of lighting products, between those points in the U.S. in and east of MN, IA, KS, OK and TX.

MC 146021 (Sub-7), filed June 1, 1981. Applicant: RALPH OWENS TRUCKING CO., INC., P.O. Box 711, Hereford, TX 79045. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX (806) 763–9555. Transporting *pulp, paper and related products*, between points in TX, OK, LA, KS, MS, TN, AL, AR, and CO.

MC 151471 (Sub-9), filed June 1, 1981. Applicant: STEINBECKER BROS., INC., P.O. Box 852, Greeley, CO 80632. Representative: Jack B. Wolfe, 1600 Sherman St., No. 665, Denver, CO 80203 (303) 352–1170. Transporting *pulp, paper and related products*, between points in Los Angeles County, CA, on the one hand, and, on the other, points in CO, OR, and WA.

MC 153460 (Sub-1), filed June 4, 1981. Applicant: BRUCE TRANSPORTATION CO., INC., 32 Barry Drive, Rockaway Twsp., NJ 07866. Representative: William H. Cover, III, 141 N. Beverwyck Road, Lake Hiawatha, NJ 07034, (201) 334–8362. Transporting *general commodities* (except classes A and B explosives), between points in NJ, NY, CT, DE, MD, VA, MA, OH, PA, and MI, on the one hand, and, on the other, those points in the U.S. in and east of MN, NE, KS, OK, and TX.

MC 154190 (Sub–1), filed May 29 1981. Applicant: N. J. BART CORPORATION, 561 Bay Ave., Elizabeth, NJ 07201. Representative: George A. Olsen, PO Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except classes A and B explosives), between the facilities used by Warner-Lambert Company, its subsidiaries, divisions, and vendors, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 154800, filed June 3,1981. Applicant: LYNN E. ADAMS d.b.a. TRANSPORT SPECIALTIES UNLIMITED, 2859 S. Orange Ave., Fresno, CA 93725. Representative: John Adams (same address as applicant) (209) 233–6149. Transporting (1) *textile mill products*, and (2) *food and related products*, between points in the U.S., under continuing contract(s) in (1) with Berven Carpets Corporation of Fresno, CA, and in (2) with Seneca Foods Corporation of Prosser, WA.

MC 155070, filed May 21, 1981. Applicant: AMERICAN PACIFIC EXPRESS, INC., 817 McDonald Street, Green Bay, WI 54303. Representative: Patrick J. Fleming (Same address as applicant) (414) 435–2400. Transporting (1) *pulp, paper and related products*, (2) *rubber and plastic products*, and (3) *food and related products*, between points in WI, on the one hand, and, on the other, points in El Paso and Houston, TX, and those in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 155221, filed June 5, 1981. Applicant: ALL SERVICE TRANSPORTATION, INC., 237 Ironwood, Hereford, TX 79045. Representative: Timothy Mashburn, 1806 Rio Grande, Austin, TX 78768 (512) 476–6391. Transporting *food and related products*, between points in Hale, Parmer, Potter, Randall, Lubbock, Deaf Smith and Moore Counties, TX, and Ford County, KS, on the one hand, and, on the other, points in AZ, CA, ID, NV, OR, UT, and WA.

[FR Doc. 81–18024 Filed 6–16–81; 8:45 am]
BILLING CODE 7035–01–M

[Volume No. 102]

Motor Carries; Permanent Authority Decisions; Restriction Removals, Decision-Notice

Decided: June 11, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Alspaugh, and Shaffer.

James H. Bayne,

Acting Secretary.

MC 8922 (Sub-8)X, filed May 20, 1981. Applicant: THE WAHL MOVING & TRANSFER CO., 16100 S. Waterloo Rd., Cleveland, OH 44110. Representative: William Hachtel (same as applicant). Applicant seeks to remove restrictions from its Sub-No. 6 certificate to (1) remove "originating at or destined to"restriction.

MC 27580 (Sub-8)X, filed March 5, 1981, published in the **Federal Register** of March 20, 1981, republished as follows: Applicant: JOSEPH CORY DELIVERY SERVICE, INC., 114 Liberty Street, Suite 204, New York, MY 10006. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Applicant seeks to remove restrictions in its lead and Sub-Nos. 4, 5 and 7 certificates. By certificate served May 6, 1981, applicant was granted most of the restriction removal requested by it with respect to commodity, territory and service. However, it was not granted expansion of points within a 50 mile radius of New York, NY, commerical zone in New York and New Jersey to points in New Jersey in and North of Atlantic and Gloucaster Counties, NJ, and points in Nassau, Suffolk, Sullivan, Orange, Rockland, Ulster, Dutchess, Putnam and Westchester Counties, NY, and New York, NY. Because of a recent change in policy allowing such expansion, this Board has decided to renotice this application only with respect to this one issue. Notice is hereby given that applicant seeks to expand the territory in Sub-No. 4 as stated above.

MC 35320 (Sub-659)X, filed May 26, 1981. Applicant: T.I.M.E.-DC, INC., 2598 74th Street, P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same as applicant). Applicant seeks to remove restrictions in its Sub-No. 77 certificate to (1) broaden its commodity descriptions from general commodities (except commodities of unusual value, in bulk, requiring special equipment, livestock, requiring mechanical refrigeration or temperature control other than those moving on government bills of lading, automobiles, trucks, and buses other than those moving on government bills of lading), to "general commodities; (2) authorize all intermediate points on the regular routes, and (3) remove the restriction on

sheet 3 against service between any two points both of which lie east of CA Hwy. 39.

MC 44783 (Sub-12)X, filed June 4, 1981. Applicant: THE MAHONING EXPRESS COMPANY, P.O. Box 557, Union Street, Mineral Ridge, OH 44440. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Applicant seeks to remove restrictions in its Sub-No. 11 certificate to (1) broaden its commodity description from iron and steel articles, to "metal products"; and (2) eliminate the commodities in bulk expection.

MC 102567 (Sub-255)X, filed June 2, 1981. Applicant: McNAIR TRANSPORT, INC., 13403 Northwest Freeway, #130, Houston, TX 77040. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Applicant seeks to remove restrictions in its Sub-No. 254F part (2), certificate by (1) broadening the territorial description from one-way authority to radial authority between AL, MS, TN, OK, and NM, on the one hand, and, on the other, points in the United States, and (2) combining the above base territory with AR, LA, and TX base territory in its Sub-No. 254F, part (1) certificate, to form a single territory.

MC 104430 (Sub-67)X, filed May 27, 1981. Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 408, McComb, MS 39648. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Applicant seeks to remove restrictions in its Sub-Nos. 62F and 63X certificates to (1) broaden its commodity description to "commodities in bulk", for chemicals in bulk, in tank vehicles; and (2) replace cities with county-wide authority: in Sub-Nos. 62F and 63X, Baton Rouge, LA, with Ascension, East Baton Rouge, Iberville, Livingston, and West Baton Rouge Parishes, LA; in Sub-No. 63X, Gretna, LA, with Orleans, Plaquemines, St. Bernard, and St. John the Baptist Parishes, LA; Gulfport, MS, with Harrison County, MS; New Orleans, LA, with Plaquemines, St. Bernard, St. Charles, and St. Tammany Parishes, LA; Montgomery, AL, with Autauga, Elmore, and Montgomery Counties, AL; and Pascagoula, MS, and points within ten miles thereof, with Jackson County, MS and Mobile County, AL.

MC 111401 (Sub-622)X, filed May 18, 1981. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Alvin J. Meiklejohn, Jr., 1600 Lincoln Center, 1600 Lincoln Street, Denver, CO 80264. Applicant seeks to remove restrictions in its Sub-Nos. E7, E17, E19, E28, E29, E35, E51, E53, E54, E55, E59, E60, E62, E64, E77, E81, and E96, letter notices to (A) expand commodity descriptions to (1) "commodities in bulk" from chemicals, liquid chemicals, and/or petro chemicals in Subs E7, E17, E19, E29, E35, E51, E53, E54, E59, E77, E81 and E96; dry synthetic plastics in E17 and E29; anhydrous ammonia and acrylonitrile in Sub E28; lubricating oil in Sub E62 and petroleum products in E55, E60 and E64; (B) remove one way authority and replace with round-trip (radial) authority between points located throughout the U.S.; in all Subs listed above; (C) remove named point authority and replace with county-wide authority as follows: Avondale, LA to Jefferson Parish, LA in Sub-No. E28; Kingsport, TN to Sullivan County, TN in Sub–Nos. E51, E53 and E54; Ringwood, IL to McHenry County, IL and Demopolis, AL to Marengo County, AL in Sub-No E59; Taft, LA to St. Charles Parish, LA in Sub–Nos. E81 and E96; (D) remove exceptions of "in bulk, in tank vehicles", in all Sub-Nos. (E) remove plantsite restriction(s) in Sub-Nos. E81 and E96; and (F) remove exceptions on certain commodities to points in MS.

MC 115654 (Sub-198)X, filed June 2, 1981. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W. Washington, DC 20004. Applicant seeks to remove restrictions in its Sub-No. 196F certificate to eliminate the commodities in bulk exceptions to its authority to transport such commodities as dealt in grocery and food business houses, etc., and materials, equipment and supplies

MC 115826 (Sub-602)X, filed May 21, 1981. Applicant: W. J. DIGBY, INC., 6015 E. 58th Ave., Commerce City, CO 80022. Representative: Jack B. Wolfe, 1600 Sherman St., 665 Capitol Life Center, Denver, CO 80203. Applicant seeks to remove restrictions in its Sub-Nos. 270, 274, 282, 284, 287, 295F, 299F, 316F, 319F, 336F, 338F, 339F, 340F, 343F, 348F, 354F, 359F, 363F, 368F, 369F, 374F, 399F, 405F, 424, 433, 435, 437F, 446F, 448F, 451, 452F, 453F, 463F, 474F, 477F, 483F, 490F, 492F, 508F, 517F, 519F, 529F, 532F, 534F, 535, 538F, 544F, 550F, 558, 559F, 564F, 568F, 574F, 577F, 578F, 581, 589F, 590F, 591F, 593F, and 596F certificates to (1) broaden its commodity descriptions to (a) "textile mill products, rubber and plastic products, lumber and wood products and miscellaneous products of manufacturing" from specified commodities such as carpeting, carpets, rugs, floor coverings, article grass carpets, textile, mattress cover, and textile mattress padding, carpet pad, floor tile and floor coverings in Sub-Nos. 270, 274, 299F, 363F, 369F, 433, 508F, 564F, and 568F; (b) "furniture and fixtures, machinery and clay, concrete, glass or stone products", from specified commodities such as new furniture, new furniture parts, lamps, lamp shades, lighting fixtures and light bulbs in Sub-Nos. 282, 295F, and 590F; (c) "clay, concrete, glass or stone products", from insulating materials in Sub-No. 284; (d) "chemicals and related products", from specified commodities such as chemicals and adhesive cement, sodium bicarbonate, sodium carbonate and cleaning, scouring and washing compounds in Sub-Nos. 287, 519F, 550F(2), 568(b), and 574F; (e) "machinery" from specified commodities such as mechanical refrigeration units, evaporators and compressors, and materials and accessories and electrical instruments in Sub-Nos. 316F and 354F; (f) "chemicals and related products, metal products and machinery", from chemicals and chemical products, high pressure units and materials, equipment and supplies used in the manufacture, distribution and installation of high pressure water units in Sub-No. 319F; (g) "clay, concrete, glass or stone products and rubber and plastic products", from beads and pulverized glass in Sub-No. 336; (h) "rubber and plastic products, pulp, paper and related products", from specifed commodities such as plastic products, commodities dealt in by manufacturers and convertors of paper and paper products, and materials, equipment and supplies, and plastic beads in containers in Sub-Nos. 338F, 339F, 340F and 424; (i) "general commodities (except classes A and B explosives)", from safety clothing and equipment for the protection of workers and materials, equipment and supplies used in the manufacture and distribution of those commodities, abrasives and abrasive products, drilling, coring and mining bits, sealants, power tools and parts for power tools and materials, equipment and supplies used in the manufacture and distribution of industrial ceramics, plastic and synthetic articles, chemical process, mining and petroleum products, and commodities dealt in by manufacturers of such commodities, in Sub-No. 348F; (j) "rubber and plastic products" from rubber tires and tubes and accessories for rubber tires and tubes in Sub-No. 368F; (k) "such commodities as are dealt in by manufacturers of trunks, and travelling bags" from materials and supplies used in the manufacture of trunks and travelling bags, and trunks and travelling bags in Sub-No. 374; (l)

"pulp, paper and related products, and metal products", from honeycomb cellular boards, honeycomb cellular blocks or honeycomb cellular panels, fiberboard, paper and metal in Sub-No. 405F; (m) "clay, concrete, glass or stone products, metal products and lumber and wood products", from boards, blocks and panels in Sub-No. 435; (n) "chemicals and related products, rubber and plastic products, and food and related products" from drug and toilet preparations, health and beauty care products, cleaning compounds, plastic articles, dietetic foods, infant foods and dessert preparations, chemicals, foodstuffs, cleaning compounds, equipment and appliances used in health and beauty care in Sub-Nos. 437F, 446F; (o) "such commodities as are dealt in by manufacturers of suitcases, travel bags, briefcases and carrying cases", from suitcases, travel bags, briefcases and carrying cases, and materials and supplies used in the manufacture, repair, display and distribution of those commodities in Sub-No. 451; (p) "chemicals and related products and petroleum and natural gas and their products", from cleaning, washing, buffing and polishing compounds, textile softeners, lubricants, hypochlorite solutions, deodorants, disinfectants and paints in Sub-No. 452F; (q) "petroleum, natural gas and their products, chemicals and related products and machinery", from petroleum, petroleum products, vehicle body sealer, and sound deadener compounds and filters and materials, supplies and equipment used in the manufacture, sale and distribution of the commodities named Sub-No. 453; (r) "machinery, clay, concrete, glass or stone products, metal products, and rubber and plastic products" from specified commodities such as electrical household appliances and equipment, hydrotherapy equipment, sink and shower fixtures, smoke alarms, water filters and materials, equipment and supplies used in the manufacture and distribution of the commodities named in Sub-Nos. 474F and 519F; (s) "such commodities as are dealt in by manufacturers of shampoo, toilet preparation, hair mist, soap and cosmetics", from specified commodities such as shampoo, toilet preparation, hair mist, soap, cosmetics and materials, equipment and supplies used in the manufacture of the commodities named in Sub-Nos. 490F and 578F; (t) "chemicals and related products, rubber and plastic products, and machinery", from chemicals, plastic liquid, plastic sheeting, ink, lacquer, varnish, paint thinner and machinery and machinery parts, in Sub-No. 492F; (u) "such commodities as are dealt in by manufacturers of hospital supplies and accessories", from hospital supplies and accessories in Sub-No. 517F; (v) "petroleum, natural gas and their product", from petroleum and petroleum products in Sub-No. 532F; (w) "such commodities as are dealt in by manufacturers of drugs, chemicals and toilet preparations", from drugs, chemicals and toilet preparations in Sub-No. 534F; (x) "petroleum and natural gas and their products and chemicals and related products", from petroleum, and petroleum products and vehicle body sealer and sound deadeners in Sub-No. 535; (y) "furniture and fixtures", from wooden cabinets and cabinet parts in Sub-No. 538F; (z) "chemicals and related products and such commodities as are dealt in by manufacturers or distributors of drugs, toilet preparations and health care products", from drugs, toilet preparations, health care products, magnesium hydroxide and alumina calcined in Sub-No. 558; (aa) "rubber and plastic products and such commodities as are dealt in by manufactures by fiberglass materials and products", from fiberglass, fiberglass products, plastic materials, plastic products and materials, equipment and supplies used in the manufacture of packing or installation of those commodities in Sub-No. 577F; (bb) "clay, concrete, glass or stone products and non-metallic minerals", from diatomaceous earth in Sub-No. 589F; (cc) "clay, concrete, glass or stone products and machinery" from light bulbs and lighting fixtures and materials, equipment and supplies used in the manufacture, distribution and sale of those commodities in Sub-No. 590F; (dd) "food and related products" from feed and feed ingredients in Sub-No. 550F(1) and (ee) "general commodities (except classes A and B explosives)" from toilet preparations, health and beauty aid products, buffing and polishing compounds, and equipment and appliances used in health and beauty care and commodities used in the manufacture of these commodities in Sub-No. 446F; (2) replace its cities and facilities with countrywide or city-wide authority: in Sub-No. 270, Anaheim, CA, with Orange County, CA; in Sub-No. 284, facilities at Fruita, CO, and Grambling, LA, with Mesa County, CO, and Lincoln County, LA; in Sub-No. 316F, Louisville, GA, with Jefferson County, GA; in

Sub-No. 336F, facility at Brownwood, TX, with Brown County, TX; in Sub-Nos. 338F, and 424, facilities at Shelbyville, IL, with Shelby County, IL; in Sub-No. 340F, facilities at San Pedro, La Mirada, CA, and Saginaw, TX, with Los Angeles County, CA and Tarrant County, TX; in Sub-No. 343F, facilities at Chicago Heights, IL, with Cook County, IL; in Sub-No. 354F, Loveland, CO, and Ames, IA, with Larimer County, CO, and Story County, IA; in Sub-No. 359F, Cockeysville, MD, and Holyoke, MA with Baltimore County, MD, and Hampden County, MA; in Sub-No. 363F, Madison, IN, and Lancaster and East Hempfield, PA, with Jefferson County, IN, and Lancaster County, PA; in Sub-No. 368F, Huntsville, AL, Buffalo, NY, Dayton, OH, Conshohocken, PA, and Carson, CA, with Madison County, AL, Erie County, NY, Montgomery County, OH, Montgomery County, PA, and Los Angeles County, CA; in Sub-No. 369F, Rabun Gap, Dalton and Chatsworth, GA, McGehee, AR, Chattanooga, TN, Glasgow, VA, Elk Grove Village, IL, Willow Grove, Fogelsville, Lancaster and East Hempfield, PA, with Whitfield, Murray and Rabun Counties, GA, Desha County, AR, Hamilton County, TN, Rockbridge County, VA, Cook County, IL, and Montgomery, Lancaster and Lehigh Counties, PA; in Sub-No. 374F, Riverside and Waterbury, CT, Mishawaka and Port Clinton, IN, Canton and Lowell, MA, Columbus, MS, Garfield, Ridgefield and West Caldwell, NJ, Glen Cove, NY, Pottstown, PA, Providence and West Warwick, RI, Stuart, VA, and Tucson and Nogales, AZ, with Fairfield and New Haven Counties, CT, St. Joseph County, IN, Norfolk and Middlesex Counties, MA, Lowndes County, MS, Bergen and Essex Counties, NJ, Nassau County, NY, Montgomery County, PA, Providence and Kent counties, RI, Patrick County, VA, and Pima and Santa Cruz Counties, AZ; in Sub-No. 399F, Worcester, MA, Seattle, WA, Phoenix, AZ, and Charlotte, NC with Worcester County, MA, King County, WA, Maricopa County, AZ and Mecklenburg County, NC; in Sub-No. 405F, facility at Casa Grande, AZ, with Pinal County, AZ, and Pascagoula, MS, with Jackson County, MS; in Sub-No. 435, La Mirada, CA, Casa Grande and Nogales, AZ, with Los Angeles County, CA, and Pinal and Santa Cruz Counties, AZ; in Sub-No. 437F, La Mirada, CA, Spokane and Seattle, WA, with Los Angeles County, CA and Spokane and King Counties, WA; in Sub-No. 446F, Sparks, NV, Seattle, WA, and Piscataway, NJ, with Washoe County, NV, King County, WA and Middlesex County, NJ; in Sub-No. 448F, facilities at Waxdale and Racine, WI, with Racine County, WI; in Sub-No. 452F, Joilet, IL, Avenel, NJ and Garland,

TX, with Will County, IL, Middlesex County, NJ, and Dallas County, TX; in Sub-No. 463F, facilities at Denver, CO, with Denver, CO, and Florence, KY with Boone County, KY; in Sub-No. 483F, facility at Cheswick, PA, with Allegheny County, PA; in Sub-No. 492F, Terre Haute, IN, Elmhurst, IL, Herndon, VA, Charlotte and Matthews, NC, Moss Point, MS, Kearney, NJ, Farmingdale, NY, and Woburn and South Hadley Falls, MA, with Vigo County, IN, Du Page County, IL, Fairfax County, VA, Mecklenburg County, NC, Jackson County, MS, Hudson County, NJ, Nassau County, NY, Middlesex, and Hampshire Counties, MA; in Sub-No. 508F, facilities in Kankakee, IL, with Kankakee County, IL, Southgate, CA with Los Angeles County, CA; in Sub-No. 517F, Irvine, CA, with Orange County, CA; in Sub-No. 534F, Elkhart, IN, and New Haven, CT, with Elkhart County, IN and New Haven County, CT; in Sub-No. 535, Congo and St. Marys, WV, Emlenton, Farmers Valley and North Warren, PA, and Buffalo and North Tonawanda, NY, with Pleasants and Hancock Counties, WV, Venango, McKean, and Warren Counties, PA, and Erie and Niagara Counties, NY; in Sub-No. 544F, Hampstead and Easton, MD, Tarboro and Fayetteville, NC, and Lancaster, PA, with Carroll and Talbot Counties, MD, Edgecombe and Cumberland Counties, NC, and Lancaster County, PA; in Sub-No. 550F, facilities in Sweetwater, WY, with Sweetwater County, WY; in Sub-No. 558, Lakewood, NJ, Lewes, DE, Reno, NV, and San Leandro, CA, with Ocean County, NJ, Sussex County, DE, Washoe County, NV, and Alameda County, CA; in Sub-No. 559F, facilities at Camphill and Mechanicsburg, PA, with Cumberland County, PA; in Sub-No. 564F, East Hempfield Township and Lancaster, PA, with Lancaster County, PA; in Sub-No. 568F, Ames, IA, and Pennsauken, NJ, with Story County, IA, and Camden County, NJ; in Sub-No. 574F, facilities in Old Fort, OH, and Syracuse, NY, with Seneca County, OH and Onondaga County, NY; in Sub-No. 577F, facilities at Amarillo, TX, with Potter County, TX; in Sub-No. 578F, Friendship, NC, with Guilford County, NC; in Sub-No. 581, facilities at Hartford, CT, with Hartford County, CT; in Sub-No. 589F, Maricopa, CA, with Kern County, CA; in Sub-No. 590F, Compton, CA, with Los Angeles, CA; in Sub-No. 593F, East Greenwood, SC, with Greenwood County, SC; and in Sub-No. 596F, facilities at Chatsworth, CA, with Los Angeles County, CA; (3) change its one-way authority to radial authority between the above named cities and counties, and several States throughout the U.S.; (4) remove various commodity restrictions including except in bulk, in tank vehicles, except those of unusual value, household goods as defined by the Commission, and those requiring special equipment, in vehicles equipped with mechanical refrigeration, except foodstuffs, in bags, etc. in Sub-Nos. 284, 287, 319F, 340F, 343F, 348F, 359F, 399F, 424, 446F, 448F, 451, 452F, 453F, 463F, 477F, 483F, 519F, 529F, 535, 544F, 550F, 568F, 589F, etc.; (5) eliminate the originating at and/or destined to restrictions in Sub-Nos. 270, 338F, 343F, 359F, 363F, 399F, 424, 433, 435, 446F, 448F, 452F, 453F, 463F, 477F, 544F, 558F, 581F, 589F and 593F; and (6) eliminate the AK and HI exceptions in Sub-Nos. 284, 316F, 348F, 359F, 446F, 448F, 451, 474F, 490F, 532F, 538F, 544F, 564F, 574F, 577F, 591F, 593F, and 596F.

MC 116519 (Sub–102)X, filed May 27, 1981. Applicant: FREDERICK TRANSPORT LIMITED, R. R. 6, Chatham, Ontario, Canada. Representative: Jeremy Kahn, Attorney-at-Law, Suite 733 Investment Building, 1511 K Street NW., Washington, DC 20015. Applicant seeks to remove restrictions in its Sub-No. 71 certificate, which authorizes the transportation of refractories, and materials and supplies used in the manufacture and installation of refractories, from points in 13 states to ports of entry on the U.S.-Canada boundary line in Michigan and New York, to replace one way with radial authority between those points.

MC 117954 (Sub–30)X, filed May 27, 1981. Applicant: H. L. HERRIN, JR., d.b.a. H. L. HERRIN TRUCKING CO., P.O. Box 1106, Metairie, LA 70004. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Applicant seeks to remove restrictions in its lead certificate and Sub-Nos. 3, 5, 8, 10, 19, 22, 25 and 27F; (1) to broaden commodities descriptions in all the above authorities to "food and related products", from bananas, agricultural commodities, frozen potatoes and frozen potato products, and foodstuffs; (2) to expand territorial authority from points or cities, to county-wide service: in the lead, Orleans and Jefferson Parishes for New Orleans, LA; Los Angeles County for Los Angeles, CA; Fulton County, GA, for Atlanta, GA; Cook County for Chicago, IL; Sedgwick County for Wichita, KS; Jefferson County for Louisville, KY; Douglas County for Omaha, NE; Osage and Tulsa Counties for Tulsa, OK; Marion and Vigo Counties for Indianapolis and Terre Haute, IN; Polk and Woodbury Counties for Des Moines and Sioux City, IA; Clay, Greene and Jasper Counties, MO, for Kansas City, Springfield and Joplin, MO; Shelby County for Memphis, TN; in Sub-No. 3, Harrison County, MS, for Gulfport, MS; in Sub-No. 5, Orleans and Jefferson Parishes for New Orleans, LA; in Sub-No. 8, Harris County, TX, for Houston, TX; in Sub-No. 10, Polk, St. Louis, Hennepen, Freeborn & Blue Earth Counties, MN, for Crookston, Duluth, Minneapolis, Albert Lea, and Mankato, MN; Cass County, ND, for Fargo, ND; Woodbury County for Sioux City, IA; in Sub-No. 19, Brazoria County for Freeport, TX; in Sub-No. 22, Mobile and Baldwin Counties, AL, for Mobile, AL; in Sub-No. 25, Wyandotte County, KS, and Jackson County, MO, for Kansas City, KS; in Sub-No. 27, Portage County, WI, for Plover, WI; (3) authorize radial authority in place of existing one-way authority between the counties named above and numerous points throughout the U.S. in all authorities; (4) in Sub-No. 22, delete the mixed loads language and the restriction limiting transportation to traffic having a prior movement by water; (5) in Sub-No. 25, remove the except in bulk restriction, the equipment and facilities restriction; (6) in Sub-No 27, remove the in bulk restriction; (7) in Sub-No. 3, remove the exceptions of service to Montgomery, AL, and Atlanta, GA and 15 miles thereof; (8) eliminate the "originating at and destined to" restrictions wherever they appear.

MC 119632 (Sub–125)X, filed May 28, 1981. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Owen B. Katzman, 1828 L Street NW., Washington, DC 20036. Applicant seeks to remove restrictions in its Sub-No. 123 certificate to broaden the commodity description by removing exceptions to general commodities (except classes A and B explosives) in its authority between points in the eastern U.S.

MC 120737 (Sub-85)X filed March 23, 1981, published in the Federal Register of April 6, 1981, republished as follows: Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Applicant seeks to remove restrictions in its Sub-Nos. 6, 9, 42 and 43 certificates. By a certificate served May 26, 1981, applicant was granted relief to broaden the above authorities with respect to commodity, territory and service. However, a request to expand points within a 50 mile radius of Pottstown, IL, to points in Warren, McDonough, Mason, Logan, Tazewell, McLean, Livingston, Woodford, Marshall, Putnam, Bureau, Knox, Henry, Stark, Menard, DeWitt and LaSalle Counties, IL, was denied as an

unreasonable broadening of authority. Because of a recent decision declaring such a broadening reasonable, this Board has decided to republished this application with respect to this broadening. Notice is hereby given that the above noted county-wide expansion is requested.

MC 124170 (Sub-169)X, filed June 2, 1981. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, P.C., 2021 Midwest Road, Suit 205, Oak Brook, IL 60521. Applicant seeks to remove restrictions in its Sub-No. 93F certificate to: (1) broaden the commodity description from foodstuffs to "food and related products"; (2) remove the "in bulk" restriction; (3) remove the vehicle restriction "in temperature controlled vehicles"; (4) eliminate the facilities limitation at Baltimore, MD and replace with the city of Baltimore, MD; (5) replace one-way with radial authority between Baltimore, MD, and points in Anne Arundel, Baltimore, Howard, and Prince Georges Counties MD; and points in CT, DE, DC, IL, IN, KY, ME, MA, MI, MO, NJ, NY, OH, PA, RI, VT, VA, WV, and WI; and (6) eliminate " orginating at and destined to" restriction.

MC 125694 (Sub-7)X, filed May 14, 1981. Applicant: OTTO FELDT, INC., P.O. Box 75, Dover Plains, NY 12522. Representative: T. A. Zima, V.P.—Traffic, Kentile Floors, Inc., 58 Second Avenue, Brooklyn, NY 11215. Applicant seeks removal of restrictions in its lead and Sub-No. 4 permits to broaden the territorial authority to "between points in the United States", under continuing contract(s) with a named shipper.

MC 140370 (Sub-7)X, filed June 4, 1981. Applicant: V.G.H. TRUCKING, INC., P.O.,Box 183, Audubon, MN 56511. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108. Applicant seeks to remove restrictions in its lead and Sub-Nos. 3 and 6F permits to (1) broaden its commodity descriptions to "food and related products", from foodstuffs, in the lead and Sub-No. 6F; and to "machinery and rubber and plastic products", from records, 8-track tapes and plastic articles, in Sub-No. 3; and (2) broaden its territorial description to between points in the U.S., under continuing contract(s) with named shippers.

MC 141758 (Sub-9)X, filed June 4, 1981. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Hugh M. Joseloff, 410 Asylum Street, Hartford, CT 06103. Applicant seeks to remove restrictions from its lead and Sub-Nos. 1, 2F, 3F, 5F, 6F, 7F, and 8F permits to: (1) broaden the commodity descriptions from (a) paper and paper products to "pulp, paper and related products" in its lead and Sub-Nos. 2, 6 and 7; (b) liquid alum to "chemicals and related products" in its lead; (c) metal and plastic balls to "metal products, and rubber and plastic products" in Sub-Nos. 1 and 6; (d) protective packaging and "containers, carriers and devices" in Sub-Nos. 3 and 6; (e) equipment, materials and supplies used in the manufacture of metal and plastic balls to "such commodities as are used by or dealt in by manufacturers and distributors of metal products and rubber and plastic products" in Sub-No. 5; (f) synthetic rubber, and rubber products to "rubber and plastic products" in Sub-No. 6; (g) dry goods and fabrics to "textile mill products" in Sub-Nos. 6 and 8; and synthetic leather and leather products to "leather and leather products", in Sub-No. 8; and (2) broaden the territorial descriptions to "between points in the United States under continuing contract(s) with named shippers, in the lead permit and Sub-Nos. 1, 2F, 3F, and 5F.

MC 142225 (Sub-2)X, filed May 28, 1981. Applicant: GYPSUM TRUCKING COMPANY, Route 4, Tifton, GA 31794. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Applicant seeks to remove restrictions from its Sub-No. 1 permit to; (1) broaden the commodity description from wet gypsum, in bulk, to "commodities in bulk"; (2) eliminate the "in dump vehicles" restriction; and (3) broaden the territorial description to "between points in the U.S. under a continuing contract(s) with a named shipper."

MC 143417 (Sub-11)X, filed June 5, 1981. Applicant: FLASH INTERSTATE DELIVERY SYSTEM, INC., 4711 West 16th Street, Cicero, IL 60650. Representative: Barry Roberts, 888 17th Street, NW., Washington, D.C. 20006. Applicant seeks to remove restrictions from its lead and Sub-Nos. 2, 4, and 10 certificates to: (1) eliminate the "prior or subsequent TOFC service" restriction in each of the above-numbered certificates; (2) eliminate all exceptions from its general commodities authority "except classes A and B explosives" in its lead and Sub-Nos. 4 and 10; (3) eliminate the "vehicles with mechanical refrigeration restriction" in the lead; (4) broaden the commodity description from automotive parts, engine driving gear, assemblies, internal combustion engines and transmission, to "machinery and transportation equipment" in Sub-No. 2; and (5) replace existing one-way authority with radial authority between Chicago, IL, and, points in several eastern and midwestern States.

MC 143443 (Sub-6)X, filed February 17, 1981, published in the Federal Register of March 3, 1981, republished as follows: Applicant: D. J. KIRBY, INC., Box 195, Gilberts, IL 60136. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. Applicant seeks to remove restrictions in its lead and Sub-Nos. 2F and 4F certificates (1) to broaden the commodities from steel to "metal products" in the lead, from chemicals, paint and slay to "such commodities as are dealt in or used by manufacturers and distributors of chemicals and paints products in Sub-No. 2, from construction materials to "such commodities as are dealt in or used by manufacturers and distributions of construction materials" in Sub-No. 4; (2) to remove facilities restrictions in all subs, except in bulk and interlining restrictions in Sub-Nos. 2 and 4; (3) expand from city-wide to county-wide authority as follows: Houston, TX, to Fort Bend, Brazoria, Galveston, Montgomery, Harris and Chambers Counties, TX, Hialeah, FL, to Dade and Broward Counties, FL, Itasca, IL, to Cook and Du Page Counties, IL, and Los Angeles, CA to Los Angeles, and Orange Counties, CA in its lead; Valparaiso, IN, to Porter County, IN, and Elk Grove, IL, to Cook and Du Page Counties, IL, in Sub-No. 2; and Elgin and Hampshire, IL, to Kane, Cook and Du Page Counties, IL in Sub-No. 4; (4) to expand one-way to two-way authority in Sub-No. 4. The purpose of this republication is to show the expansion of Sub-No. 2, the authorization of counties in all subs, and the expansion of the commodities in Sub-Nos. 2 and 4.

NC 144071 (Sub-1)X, filed May 27, 1981. Applicant: J. A. FRATE, INC., 6207 Factory Rd., Crystal Lake, IL 60014. Representative: William H. Towle, 180 N. LaSalle St., Chicago, IL 60601. Applicant seeks to remove restrictions in its lead certificate to (1) broaden the territorial description by replacing the facility limitation (O'Hare International Airport) at or near Chicago, IL with Chicago, IL, (2) broaden the commodity description by deleting all restrictions in its general commodity authority except classes A and B explosives, and (3) remove the restriction against the transportation of traffic having a prior or subsequent movement by air.

MC 145252 (Sub-7)X, filed May 29, 1981. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St. NW., Washington, DC 20005. Applicant seeks to remove restrictions in its Sub-No. 9F permit to

(1) broaden the commodity descriptions to "chemicals and related products, food and related products, rubber or miscellaneous plastic products, and machinery" from cellulose film, cellulose edible flour, plastic film, strapping, salt cake and strapping machines; and (2) change its territorial descriptions to between points in the U.S., under continuing contract(s) with named shippers.

MC 145252 (Sub-8)X, filed May 29, 1981. Applicant: HENRY ANDERSEN, INC., P.O. Box 75, King George, VA 22485. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., NW., Washington, DC 20005. Applicant seeks to remove restrictions from its No. MC-135553 (Sub-No. 14F) permit to (1) change the commodity description from plastic film to "metal products and rubber and Plastic products"; and (2) expand territorial description to "between points in the U.S. under contract(s) with a named shipper".

MC 146145 (Sub-6)X, filed June 8, 1981. Applicant: TOWER TRANSPORT, INC., 2933 South Cicero Avenue, Chicago, IL 60650. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Applicant seeks to remove restrictions in its Sub-Nos. 3 and 4 certificates to (1) broaden the commodity description from containers and closures to "lumber and wood products, pulp, paper and related products, rubber and plastic products, clay, concrete, glass or stone products and metal products", in Sub-No. 4 and (2) broaden the territorial description by substituting county-wide authority of McHenry County, IL for Huntley, IL, in Sub-No. 3.

MC 148598 (Sub-7)X, filed June 8, 1981. Applicant: BATROCK, INC., U.S. Highway 127 North, P.O. Box 220, Lawrenceburg, KY 40342. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. Applicant seeks to remove restrictions in its Sub-Nos. 1F, 4F, 5F, and 6F certificates to (1) remove facilities restrictions in Sub-Nos. 1F and 4F; (2) remove all exceptions other that classes A and B explosives from its general commodity authority in Sub-No. 5F; (3) expand city to county-wide service or to larger contiguous city service: Boyle County (Danville), KY in Sub-No. 1F and Sub-No. 6F, and Atlanta, GA for Forrest Park, GA, in Sub-No. 4F; and (4) broaden commodity description from "plastic and rubber articles and materials, and film or sheeting" to "rubber or miscellaneous plastic products" in Sub-No. 1F.

[FR Doc. 81-18025 Filed 6-16-81; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[332-127]

Capers Imported in Bulk: Competitive Status Under Section 504(d) of the Trade Act of 1974

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the Commission has instituted investigation No. 332-124 for the purpose of providing advice to the U.S. Trade Representative (USTR) on whether any article like or directly competitive with capers imported in bulk was produced in the United States on the date of enactment of the Trade Act of 1974 (hereinafter referred to as "the Act"). This advice is sought in connection with section 504(d) of the Act (19 U.S.C. 2464(d)).

EFFECTIVE DATE: June 9, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. John Reeder, Agriculture, Fisheries, and Forest Products Division, U.S. International Trade Commission, Washington, D.C. 20436 (Telephone 202-724-1754).

SUPPLEMENTARY INFORMATION: On May 22, 1981, pursuant to the authority of the President delegated to the USTR by Executive Order 11846, as amended by Executive Order 11947, the USTR requested certain advice on capers imported in bulk.

All capers, whether crude or processed and whether in bulk or packaged for retail sale, are covered by item 161.07 of the Tariff Schedules of the United States (TSUS). In advice provided to the President in investigation Nos. TA-131(b)-5, TA-503(a)-7, and 332-113 in February 1981, the Commission indicated that articles covered by TSUS item 161.07 are like or directly competitive with articles produced in the United States on the date of enactment of the Act (January 3, 1975). Therefore if the entire TSUS item 161.07 were designated as an eligible article under the U.S. Generalized System of Preferences, imports from any GSP-eligible country supplying 50 percent or more of the value of total caper imports would generally not receive duty-free treatment because of the "competitive-need" provisions of sectin 504(c)(1)(B) of the Act.

Section 504(d) of the Act exempts from section 504(c)(1)(B) articles for which no like or directly competitive article was being produced on January 3, 1975. The USTR has requested that the Commission determine whether any article like or directly competitive with capers imported in bulk, considered separately from all other forms of capers, was produced in the United States on January 3, 1975. If the Commission were to find that there were no such like or directly competitive products, then the competitive need limits of section 504(c)(1)(B) would generally not apply to any GSP-eligible country supplying 50 percent or more of the value of capers imported in bulk and such country would receive duty-free treatment.

WRITTEN SUBMISSIONS: While there is no public hearing scheduled for this study, written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission in this study, written statements should be submitted at the earliest practicable date, but no later than July 10, 1981. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: June 10, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-17930 Filed 6-16-81; 8:45 am]
BILLING CODE 7020-02-M

[Investigation No. 337-TA-90]

Certain Airless Paint Spray Pumps and Components Thereof

Commission Order

On November 17, 1980, the Commission instituted the above-referenced investigation to determine whether there is a violation of section 337(a) of the Tariff Act of 1930 (19 U.S.C. 1337(a)) in the importation into the United States of certain airless paint spray pumps and components thereof, or

in their sale, by reason of the alleged infringement of U.S. Letters Patents 3,254,845 and 3,367, 270 and U.S. Reissue Patent 29,055, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Notice of the Commission's investigation was published in the **Federal Register** of November 21, 1980. (45 FR 77190.)

During a hearing before the Administrative Law Judge (held on March 31, 1981, through April 2, 1981), complainant Wagner Spray Tech Corp., presented testimony indicating that one Italian and four Japanese companies may be about to import allegedly infringing pumps into the United States in the near future. These and similarly situated companies may be vitally concerned with the outcome of this investigation and may wish to submit comments to the Commission on the issues of public interest and remedy. One or more of the parties to this investigation may be in a good position to identify interested nonparties so that the Commission may invite their comments at the appropriate time.

Accordingly, it is hereby Ordered that—

1. The parties shall submit to the Commission by June 19, 1981, a list containing the names and addresses of companies and/or persons not a party to this investigation who may have relevant information to present to the Commission concerning the issues of violation, public interest and remedy, particularly those nonparties which may be on the verge of involvement in the importation of pumps alleged to infringe the patents in issue in this investigation; and

2. The Secretary shall serve a copy of this Order upon each party of record in this investigation.

By order of the Commission.

Issued: June 12, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-17911 Filed 6-16-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-76]

Certain Food Slicers and Components Thereof; Termination of Taiwan Timing Trading Co. As Party Respondent

AGENCY: International Trade Commission.

ACTION: Termination of Taiwan Timing Trading Co. as a party respondent in the above-captioned investigation.

SUMMARY: Having determined that this matter is properly before the Commission and having reviewed the record in this investigation, the Commission on June 8, 1981, terminated Taiwan Timing Trading Co. as a party respondent in Investigation No. 337-TA-76.

SUPPLEMENTARY INFORMATION: This investigation, under section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) concerns alleged infringement of U.S. Letters Patent 3,766,817 by respondents E. Mishan & Sons, Albert E. Price, Inc., Crest Industries Corp., and Taiwan Timing Trading Co. The Commission instituted the investigation on December 4, 1979, and published notice thereof in the **Federal Register** of December 21, 1979 (44 FR 75733).

On December 22, 1980, the Commission denied a joint motion (Motion No. 76-12) for summary determination, on the grounds that genuine issues of material fact remained with respect to both Taiwan Timing and Mishan. Price and Crest were subsequently terminated as parties respondent to the investigation on the basis of a settlement agreement and a licensing agreement, respectively (46 FR 16159, 46 FR 18632).

On February 23, 1981, complainant Prodyne moved to dismiss Taiwan Timing as a party respondent (Motion No. 76-15). On March 26, 1981, the presiding officer recommended that the Commission grant the motion (Second Recommended Determination).

The Commission published notice in the **Federal Register** seeking comments from the public regarding the recommended determination (46 FR 25375) and in addition requested comments from certain Government agencies pursuant to 19 CFR § 210.14(a)(2). No comments adverse to termination were received.

Any party wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission Action and Order. Such petitions must be in accord with Commission Rule 210.56 (19 CFR § 210.56).

Copies of the Commission Action and Order in this matter and any other public documents in this investigation are available to the public during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Warrent H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0143.

By order of the Commission.

Issued June 10, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-17931 Filed 6-16-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-104]

Certain Card Data Imprinters and Components Thereof; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: June 10, 1981.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 81-17936 Filed 6-16-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-103]

Certain Stabilized Hull Units and Components Thereof and Sonar Units Utilizing Said Stabilized Hull Units; Order

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Office in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: June 10, 1981.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 81-17939 Filed 6-16-81; 8:45 am]

BILLING CODE 7020-02-M

[731-TA-43 (Preliminary)]

Fresh Cut Roses From Colombia, Institution of a Preliminary Antidumping Investigation and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of the institution of a preliminary antidumping investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with

material injury, or the establishment of an industry is materially retarded by reason of imports of fresh cut roses from Colombia, provided for in item 192.18 of the Tariff Schedules of the United States, allegedly sold at less than fair value.

EFFECTIVE DATE: June 4, 1981.

FOR FURTHER INFORMATION CONTACT: John MacHatton, Supervisory Investigator, telephone (202–523–0439), U.S. International Trade Commission, Room 342, 701 E Street, NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION:

Background. On June 4, 1981, the Commission received a petition on behalf of Roses Incorporated, a trade association. Accordingly, on June 8, 1981, the Commission, pursuant to section 733(a) of the Tariff Act of 1930, 19 U.S.C. 1673b(a) (Supp. III 1979), instituted preliminary antidumping investigation No. 731–TA–43 (Preliminary).

Authority. Section 733(a) of the Tariff Act of 1930 requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports allegedly sold in the United States at less than fair value. Such a determination must be made within 45 days after the date a petition is received. This investigation will be subject to the provisions of the Commission's Rules of Practice and Procedure and, particularly, to part 19 CFR 207.

Written submissions. Any person may submit to the Commission on or before July 6, 1981, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with requirements of section 201.6 of the Commission's Rules and Practice of Procedures, 19 CFR 201.6. All written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10 a.m., e.d.t., on June 30, 1981, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Persons wishing to participate in the conference should contact the supervisory investigator for the investigation, Mr. John MacHatton (202–523–0439) by the close of business (5:15 p.m. e.d.t.) June 26, 1981. It is anticipated that persons in support of the imposition of antidumping duties and persons opposed to such duties will each be collectively allocated 1 hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Issued: June 9, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81–17937 Filed 6–16–81; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–28 (Final)]

Menthol From the People's Republic of China

Determination

On the basis of the record [1] developed in Investigation No. 731–TA–28 (Final), the Commission unanimously determines, pursuant to section 735(b)(i) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(i)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded by reason of imports of natural menthol from the People's Republic of China, provided for in item 437.64 of the Tariff Schedules of the United States, which the Department of Commerce has found to be sold in the United States at less than fair value.

Background

The Commission instituted this investigation effective January 23, 1981, following a preliminary determination by the Department of Commerce that menthol from the People's Republic of China is being, or is likely to be, sold in the United States at less than fair value. Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith and of the change of date of the public hearing was duly given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of January 28, 1981 (46 FR 9264) and of March 18, 1981 (46 FR 17314). The hearing was held in Washington, D.C. on May 5, 1981, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioners Catherine Bedell and Paula Stern

Determination

On the basis of the record [2] developed in investigation No. 731–TA–28 (Final), the Commission unanimously determines, pursuant to section 735(b) of the Tariff Act of 1930, that an industry in the United States is not materially injured, or threatened with material injury and that the establishment of such industry in the United States is not materially retarded by reason of imports of natural menthol from the People's Republic of China, which the Department of Commerce has found to be sold in the United States at less than fair value.

The Domestic Industry

In general, the domestic industry is defined as consisting of all domestic producers of a like product or those producers whose collective output of the like product constitutes a major proportion of the like product.[3] A like product is a product which is like, or in the absence of like, most similar in characteristics and uses with, the imported article which is the subject of the investigation.[4]

The imported product which is the subject of this investigation is natural *l*-menthol from the People's Republic of China (China).[5] Natural *l*-menthol is derived from peppermint oil and is used as an additive by the flavor and fragrance industries.[6] China does not export synthetic *l*-menthol to the United States.[7] Brazil and Paraguay also export natural *l*-menthol to the United States.[8]

Four varieties of menthol are produced for commerical use in the United States: *l*-menthol, *d*-menthol, racemic menthol, and liquid menthol. *d*-

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[1] The record is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] The record is defined in sec. 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[3] Section 771(4)(A) of the Tariff Act of 1930.

[4] Section 771(10).

[5] 46 F.R. 24614 (May 1, 1981).

[6] Staff Report at A–5 and A–13.

[7] Staff Report at A–37.

[8] Id. at A–36.

Menthol, racemic menthol, and liquid menthol are chemically distinguishable from *l*-menthol and do not have the same characteristics or uses. All *l*-menthol produced in the United States is synthetic. It is manufactured from either *m*-cresol (available either from coal tar or petroleum) or a derivative of turpentine.[9] Synthetic and natural *l*-menthol are chemically identical. The staff conducted a survey of major end users which revealed that, with the exception of those who use *l*-menthol as a flavoring (these account for only a small percentage of total consumption), the vast majority of end users consider synthetic and natural *l*-menthol to be interchangeable.[10] We therefore find the like product in this investigation is synthetic *l*-menthol.[11]

There are two companies in the United States which produce synthetic *l*-menthol—Haarmann & Reimer Corp. (H&R) and SCM Corp. (SCM). H&R, the petitioner, is the largest domestic producer. It is a wholly-owned subsidiary of Rhinechem Corp., which is the American holding company for Bayer, AG. of West Germany. Although its plant in Bushy Park, South Carolina did not offically open until 1978, H&R has produced *l*-menthol since 1977. The plant is dedicated exclusively to the production of menthol and employs production technology based on Bayer AG.'s West German menthol production in which *l*-menthol is synthesized from *m*-cresol.

SCM, which also supports the petition, is a diversified corporation. Menthol is produced by its Terpene and Aromatic Division in a plant which produces a variety of chemicals from turpentine. SCM began to produce menthol in 1961 but dropped out of the market in 1963 when prices were declining rapidly. SCM resumed production in 1975.

For these reasons, it is our view that the industry is comprised of H & R and SCM.

No Material Injury by Reason of LTFV Import

We have determined on the basis of the record that the domestic industry is not being materially injured or threatened with material injury and that the establishment of such industry is not being materially retarded by reason of the LTFV imports. Material injury is defined as harm which is not inconsequential, immaterial or unimportant.[12] In determining material are directed to consider, among other things, the volume of these imports, the effect of the imports on prices, and the impact of the imports on the domestic industry.[13] The Commission is directed to assess the effect of dumped imports in relation to the U.S. production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits.[14] If the domestic production of the like product has no separate identity, then the Commission must examine the production ot the narrowest group or range of products containing the like product for which the necessary identifying information is available.[15]

In this case two domestic firms, SCM and H & R, account for the total domestic production of synthetic *l*-menthol.[16] Both firms provided profit-and-loss information for both their total menthol production and for their production of *l* menthol alone.[17] We are of the opinion that the allocation of the profit-and-loss information for *l*-menthol is reasonable. Therefore, we will assess the impact of imports from China in relation to the domestic production of *l*-menthol.

I. Volume of LTFV Imports

China was a major supplier of natural *l*-menthol to the United States menthol market in the 1940's. It reentered the market in 1975 after Brazil had become the principal source of U.S. imports. Total U.S. imports of *l*-menthol increased significantly in 1978 but have declined since.[18] The decline is the result of a decline in the penetration of imports from Brazil and other sources. In contrast, imports of *l*-menthol from China have increased dramatically since 1977. This increase in imports from China seems to be replacing the decline in imports from Brazil and other sources.

The ratio of imports of natural *l*-menthol from China to apparent U.S. consumption has increased significantly, since the level of domestic consumption has increased at a slower rate than the volume of imports of the subject merchandise. However, this increase in the market share enjoyed by imports from China occurred concurrently with declines in imports from other countries.

II. Effect of LTFV Imports on Domestic Prices

Our analysis of the pricing information obtained in this investigation revealed that LTFV imports from China did not have a significant effect on domestic prices. Although the report presents pricing information in a variety of ways, we relied on the comparisons made in table 20 as being the most relevant to our considerations. Table 20 is the only table which contains comparisons of similar contracts, i.e., the prices shown reflect contract prices negotiated at approximately the same time for a comparable quantity of material, covering a similar length of time. The comparisons in table 20 result in margins of underselling during only two periods—one in early 1977 before H & R began producing menthol and a slight margin early in 1978. However, in this last instance the importer had negotiated for a significantly larger volume of material that the U.S. producer.

Data on contract prices of U.S. producers and importers were compared by date of delivery in tables 17 and 18. Although these comparisons resulted in occasionsl margins of underselling, they do not reflect the various factors which directly affect price, such as the date of contract negotiation, duration of the contract, and the volume of material contracted for. The data obtained on spot-market prices were incomplete and the comparisons involved widely descrepant quantities. These comparisons were therefore deemed inconclusive.

We conclude, therefore, that there is no clear pattern of LTFV imports significantly underselling domestic merchandise. Nor do we find that the declining market price for menthol was precipitated by imports from China.

III. Impact of LTFV Imports on the Domestic Industry

Our analysis of the economic data in this investigation indicates that the domestic industry is not being adversely affected by LTFV imports. From 1977 to 1980, U.S. production, capacity, and commercial shipments of *l*-menthol increased steadily.[19] Employment and wages in the industry also rose during the same period.[20] Although domestic inventories increased from 1977 to 1979, they declined significantly in 1980.[21] The decline in capacity utilization from 1978 to 1980 is accounted for by the increase

[9] Id. at A-4.
[10] Id. at A-5.
[11] See additional views of Vice Chairman Calhoun for a discussion of like product.
[12] Section 771(7)(A).
[13] Section 771(7)(B).
[14] Section 771(4)(D).
[15] Section 771(4)(D).
[16] Staff Report at A-13 and A-30.
[17] Id. at A-31.
[18] Staff Report at A-35. The specific data regarding volume of imports is confidential as are most of the data for the economic indicators on which the Commission based its determination.
[19] Staff Report at A-12 and A-18.
[20] Id. at A-29-30.
[21] Id. at A-21.

in U.S. capacity with the opening of the new H & R plant in Bushy Park, South Carolina.[22]

While the overall profitability of the domestic industry declined from 1978 to 1980, we have not found a causal link between the decline and the LTFV imports. The declining profitability of the domestic industry may be explained by a number of factors other than LTFV imports. First, domestic menthol prices have declined along with world menthol prices due to the problem of oversupply in a commodity market in which prices are controlled by supply. The increase in the capacity of domestic producers exceeded the percentage, in both absolute and relative terms, by which total imports declined during 1978 to 1980, therefore creating a situation of oversupply.[23] This problem was exacerbated by the apparent volatility of domestic consumption which is due to purchasers' stockpiling during periods of low prices and oversupply, such as occurred in 1978. Second, the decline in profitability is due in part to the fact that a majority of H & R's *l*-menthol, which accounts for a significant percentage of domestic production, is exported to affiliated companies and sold at prices which are lower than domestic prices.[24] Third, the overall profitability figures were lowered as a result of losses suffered by SCM during a six-month strike in 1980.[25] The fourth factor is the increase in both U.S producers' raw material costs at a time when world market prices were apparently declining.[26]

The petitioner alledged eight instances in which sales were lost to imports of menthol from China. The lost sales analysis was complicated by several factors. First, imports from China began prior to 1977 and H & R did not begin to solicit sales in the U.S. until 1977. Other factors include the apparent consumer resistance to a synthetic product and the start up problems H & R had in connection with bringing the Bushy Park plant on stream.[27] Despite these problems and the existence of the LTFV imports, the producers' share of the domestic market increased from 1978 to 1980.[28] In light of these factors, there is no indication of significant lost sales.

For the reasons outlined in the preceding paragraphs, we find no evidence of material injury by reason of the LTFV imports.

No threat of Material Injury by Reason of LTFV Imports

There is no clear evidence on the record that U.S. producers' share of the domestic market will be prevented from continuing to increase. Although imports from China have continued to increase in January–March of 1981,[29] these imports appear to be taking over a portion of the domestic market traditionally supplied by imports of *l*-menthol from other sources. In light of the absence of a clear pattern of underselling of the LTFV imports, we have no evidence that the domestic producers have been or will be precluded from sharing in any future market growth or gaining the share of the U.S. market formerly held by imports from Brazil and other sources.

Further, there is no convincing evidence contained in the record that China intends to increase its production capacity. During 1980, its production was reduced due to flooding.[30] Additionally, both home-market demand and exports increased, thereby reducing apparent inventories in China.[31] Currently, the United States is China's fourth largest export market, and there is no evidence on the record which would indicate that the CNEC (the state-trading organization that handles the export of menthol) intends to divert larger volumes of menthol to the United States.[32]

Counsel for H & R argued that Inventories of Chinese menthol currently held in bonded warehouses in the United States pose a threat of material injury. An analysis of the current inventory levels of menthol from China in bonded warehouses in the United States does not indicate clearly that the domestic industry is threatened with matieral injury. A ceratain percentage of these inventories is destined for transshipment.[33] Additionally, some of the inventories are held by end users who typically store menthol for long periods of time before withdrawing it for use.[34] Finally, is held by dealers who have purchased it against committed fixed price contracts.[35] As to importers' inventories of material that has already cleared customs, it is reasonable to assume that the majority are already committed under fixed price contracts, since no new contracts have been negotiated since July of 1980.[36]

In sum, we find no indication that the domestic industry is faced with a threat of material injury by LTFV imports.
3Establishment of the Domestic Industry Is Not Materially Retarded

We have determined that the industry in this investigation is established for the purposes of section 735(b). We base our conclusion on the economic data which show that the industry is a viable competitor in the marketplace. It has gained a consistently increasing and substantial share of apparent domestic consumption. Additionally, other economic indicators, such as increasing levels of production, capacity, and employment, point to the fact that this industry has established itself.

Additional Views of Vice Chairman Michael J. Calhoun

While it is clear that the importance of the like product and industry analysis to the outcome of our material injury determination varies from case to case, the need for detailed delineation of how and why we reach our findings is nevertheless required in each case. First, the statutory scheme under which our material injury analysis in dumping and subsidy cases is conducted is a tight latticework of discrete but interrelated parts. Thus, before our ultimate conclusion can be reached several intervening conclusions are required. This makes the integrity of our ultimate determination no better than that of each intervening finding.

Second, because of the interrelated and cumulative character of the statute our obligation to provide consistent and understandable analysis can only be met through systematic, if not at times seemingly mechanical, treatment in our determinations of the various intervening factors the statutory scheme has imposed upon us. This obligation is best met if we address in each case a rather detailed consideration of them.

Such an exercise can be tedious in cases where the outcome is unaffected by a close analysis of the various factors the law compels us to address in reaching an ultimate determination. But, this kind of case by case attention to the

[22] Id. at A-17.
[23] Id. at A-17 and A-36.
[24] We note that the producer accounting for the largest percentage of domestic production (H & R) offered profit and loss information restricted to domestic sales. The figures given for the profitability of H & R's sales in the United States are greater than profitability for total domestic production, thus suggesting that lower-priced export sales could be a source of losses. While we did not base our injury analysis on these profitagility data for domestic sales alone, we did compare the figures to the level of profits for total domestic production. Staff report at A-33.
[25] Staff report at A-10.
[26] Id. at A-31-33.
[27] Id. at A-10 and A-52.
[28] Id. at A-40-41.
[29] Id. at A-37.
[30] Staff Report at A-15.
[31] Id.
[32] Id.
[33] Id. at A-24.
[34] Id.
[35] Id.
[36] Respondner's Post-Hearing Memorandum at A-6.

detail of the statute allows for a ready perception in the community and in the courts that our decisionmaking is thorough and well considered. In this investigation I have concurred with my colleagues in result, but I wish to express my industry analysis separately.

The Domestic Industry

In general, the domestic industry is defined as all domestic producers of a like product of those producers whose total output of the like product constitutes a major portion of domestic production of that product.[37] A like product is a product which is like, or in the absence of like, most similar in characteristics and uses with the imported article which is the subject of the investigation.[38]

The article subject to the investigation under this title is natural *l*-menthol from China. Natural menthol appears as fine, white crystatls and is obtained primarily from the peppermint plant which, after harvest, is subjected to steam distillation. The steam carries off the peppermint oil, which is collected and cooled to produce large crystals of *l*-menthol. The flavor and fragrance of natural menthol varies slightly with the type of peppermint from which it was obtained.[39]

Natural *l*-menthol is used primarily in cigarettes, confections, dentifrices, analgesic balms, mouthwashes, flavorings and perfumes. The natural *l*-menthol is preferred by some purchasers, mostly makers of confections and coughdrops, who find a distinction between the taste and aroma of natural and that of synthetic *l*-menthol.[40] These users account for a small percent of menthol consumption.

No natural *l*-menthol is produced in the United States. There is production of synthetic *l*-menthol which is produced from stereospecific or nonstereospecific feedstocks.[41] The primary nonstereospecific feedstock is *m*-cresol, a phenol obtained from tall oil, coal tar or petroleum. Synthesizing menthol from these more available, but sometimes more costly, feedstocks automatically produces a mixture of the eight optical isomers of menthol. Sophisticated technology such as that employed by Haarman & Reimer is required to resolve the mixture into *l*- and *d*-menthol.

Natural and synthetic *l*-menthol have the same molecular structure and are chemically equivalent. However, synthetic monthol undergoes a chemical processing which natural menthol does not undergo and natural menthol has certain trace elements which synthetic menthol does not have. Evidence on the record indicates that natural and synthetic *l*-menthol are readily substitutable for the vast majority of uses without compromise in quality of the end product. But, as mentioned above, some customers believe the natural product is more desirable for some uses. Essentially natural and synthetic menthol compete for the same customers, users which value the properties of clean teaste and fragrance and a cooling sensation. Because of the combination of these unique features, *l*-menthol has no simple substitute.

In addition to synthetic *l*-menthol, three other forms of menthol produced in the United States are commercially significant: *d*-menthol, racemic menthol, and liquid menthol. All of these types of menthol have a molecular structure different from *l*-menthol. Neither of these three products has significantly the same uses as *l*-menthol. *d*-Menthol, and isomer of *l*-menthol, is primarily used as a feedstock in the synthesis of *l*-menthol and, sometimes, as a dilutant in perfume formulae. Racemic menthol is a mixture of equal amounts of *d*-menthol and *l*-menthol. It has some cooling effect but much less than *l*-menthol. Racemic menthol is used primarily in analgesic balms, shaving creams and toothpastes. Both racemic menthol and *l*-menthol, are certified to be sare for use in foods, beverages and pharmaceuticals under the United States Pharmacopoeia (USP) and Food Chemicals Codex (FCC) specifications. Liquied menthol, a mixture of vaious isomers, is used in al limited number of industrial applications.

There are two companies in the United States whcih produce synthetic *l*-menthol, Haaram & Reimer and SCM, as described in the majority opinion, the substance of which I incorporate here by reference.

For these rasons, it is my view that the like product in this investigation is synthetic *l*-menthol and the domestic industry is comprised of Haarman & Reimer and SCM.

Additional Views of Commissioner Paula Stern

In Menthol from the People's Republic of China, Investigation No. 731-TA-28 (Preliminary), I cast the lone dissenting vote, having found at that time that there was no reasonable indication of material injury or threatened material injury due to alleged less than fair value (LTFV) imports of menthol from the People's Republic of China (China). Now that case has returned for a final determination, I am glad to be part of a unanimous Commission finding that LTFV imports of natural menthol from China are not a cause of material injury to the domestic industry and do not threaten to become so. The logic I have followed in the final case closely follows that found in my views in the preliminary one.[42] I have joined the unanimous views of the Commission in the present case because the analysis of my fellow Commissioners at this stage is now compatible with my own. Although I remain firm in my belief that both the statute and the public interest would have best been served by terminating this case at the preliminary stage, there have been further developments and I have fully examined *de novo* the entire record as augmented by the final investigation.

The domestic industry and the imported product. An end-user survey conducted by the Commission's staff has verified that synthetic and natural *l*-menthol, are considered interchangeable for the vast majority of end-users.[43] Total U.S. production of the domestic like product, synthetic *l*-menthol, is accounted for by two firms, SCM Corp. and Haarmann & Reimer Corp. (H&R). Both were able to identify separetely the production of *l*-menthol. Thus, it has become possible to assess the impact of the imports on a precise product-like basis rather than on domestic production of all menthol as was done in the preliminary investigation. Also, subsequent to the preliminary investigation, SCM has come out in support of the petition of H&R[44]

Condition of the domestic industry. The data provided in the final investigation on *l*-menthol cover the full year of 1980 instead of only the first quarter (on all menthol) as in the preliminary investigation. However, the overall picture, albeit with certain new wrinkles, is quite similar to the one observed in July 1980. U.S. production more than quadrupled, and capacity nearly quintupled during the 1977–1980 period. Capacity utilization declined slightly from exceptionally high levels reached in 1978, but remains quite good. Employment in 1980 was higher than in 1977.[45] The significant increases over the

[37] Section 771(4)(A) of the Tariff Act of 1930 (Act).
[38] Section 771(10) of the Act.
[39] Report, A-5-6.
[40] Report, A-7-8.
[41] With regard to *l*-menthol, stereospecific means having the specific spatial orientation of atoms required to produce *l*-menthol upon reaction.

[42] *See* "Views of Commissioner Paula Stern," Menthol from Japan and the People's Republic of China Inv. Nos. 731-TA-27 and 28 (Preliminary), USITC Publication 1067, July 1980 at 21-31.
[43] *See* Staff Report at A-8.
[44] Letter of May 13, 1981, to Secretary of the Commission.
[45] Data on U.S. employment were the only data not separately available for *l*-menthol rather than all menthol.

by all production and related workers are notable because they occurred in spite of the facts that the chemical industry is capital- rather than labor-intensive and that the efficiency of H&R's new plant was increased steadily during the period.

U.S. producer's inventories declined significantly in 1980 despite an increase in imports. This factor seems compatible with H&R's large exports to related companies in the face of a plant design adapted to operate on a seven days per week, twenty-four hours per day schedule.

The only truly negative development was a rapid decline in overall profitability in 1980. However, further analysis has not been able to link the imports from China in any credible fashion to this decline in profitability. Rather, other factors explain this phenomenon. The market price of *l*-menthol continued to decline in the face of ongoing abundant world supply. Because of the most-favored nation and escape clauses found in H&R's contracts, the incidence of this supply situation on the corporation's profits was rapid.[46] Furthermore, export sales at prices lower than those of the domestic market to firms affiliated to petitioner continued. H&R's data on the profitablility of its domestic sales show that home-market sales were consistently and significantly more lucrative than its total *l*-menthol operations. While net operating profit of domestic sales declined from 1978 to 1980, the decline was far less precipitous that that experienced on all *l*-menthol sales.

In my prelinimary views, I observed that H&R's performance should be judged in light of its entry into a new, unfamiliar market. This view has received further support with the confirmation that the corporation, in its 1975 decision to build a U.S. facility, did not factor in China as a possible re-entrant to the market.[47]

Causality. The decline in profitability constitutes the only sign of injury to the domestic industry. I have already observed that factors which explain that decline do not include LTFV imports from China. Pricing and lost sales information further support this conclusion.

Margins of underselling of domestic production by *l*-menthol from China were found during 1980 and from the last quarter of 1977 through the third quarter of 1978.[48] However, U.S. negotiated at later dates than domestic ones (during a period of declining prices), and often involved larger volumes and were of longer duration than those offered by domestic producers. The last two factors are certainly reasonable grounds for price discounts. When further comparisons were made on the basis of contract negotiation periods, only two periods of underselling were found—the most recent being the fourth quarter of 1978, when H&R was still establishing itself in the market.[49] And the margins of underselling were small. The extended staff analysis of pricing information provided no support for linking the decline in the profitability of the domestic industry in 1980 to the imports from China.

Lost sales information also failed to provide any link to the imports in question. Only a relatively small volume in one or two transactions was confirmed as having been lost to the Chinese imports. Because some lost sales should be found in any competitive market, a few insignificant, isolated incidences do not indicate a trend or recurrent problem.

Threat. I found no persuasive evidence that a threat of material injury by reason of the imports from China has emerged since the preliminary case. While U.S. importers inventories increased during 980, they are largely committed, *i.e.*, already sold under contract. This conclusion is supported by the fact that imports from China continued to increase despite the fact that U.S. importers negotiated no new contracts since June 1980. Committed inventories can neither affect the market price of new sales nor capture sales from U.S. producers.

Conclusion. The current picture of the domestic *l*-menthol industry exhibits no credible causal nexus between any of its problems and LTFV imports from China. Indeed, the domestic industry's recent decline in profitability seems wholly related to the business practices of H&R, the petitioner in this case.

In conclusion, I believe that this case illuminates the rationale underlying the two-stage investigatory process. Preliminary investigations are designed to weed out those cases for which, in the short 45-day time frame, a sufficiently adequate record exists to conclude that there is no reasonable indication of injury remediable under the statute. Congress in no way intended that the Commission pay short shrift to preliminary cases. The legislative history provides clear guidance:

> While the (Senate Finance) committee recognizes that the ITC cannot conduct a full-scale investigation in 45 days, it expects the Commission to make every effort to conduct a thorough inquiry during that period.[50]

The only cognizable difference in standards for a preliminary determination is that the Commission, to reach an affirmative finding, must look for a "reasonable indication" of material injury due to the imports in question. A "reasonable indication" requires more than a mere showing at the preliminary stage that the petitioner's case is not frivolous. My *de novo*-examination of the entire record has yielded no new information which might indicate that the initial record was not sufficiently adequate to terminate this case at the preliminary stage.

By order of the Commission.

Issued: June 5, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-17938 Filed 6-16-81; 8:45 am]

BILLING CODE 7020-02-M

[46] *See* Staff Report at A-13.

[47] *See* transcript at 94–95 and confidential market study by Arthur D. Little, Inc.

[48] See Staff Report at A–64 and tables 17 and 18.

[49] *Ibid.* table 19.

[50] Senate Finance Committee, Trade Agreements Act of 1979, 96th Cong., 1st. Sess., S. Rept. No. 96–249 at 66.

DEPARTMENT OF JUSTICE

Antitrust Division

Proposed Consent Judgment in Action To Enjoin Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, notice is here by given that a proposed consent decree in *United States* v. *Sharon Steel Corporation,* Civil Action Nos. 79–1201 and 80–869 has been lodged with the District Court for the Western District of Pennsylvania. The proposed decree requires the defendant to comply with the terms of the Pennsylvania Implementation Plan.

The Department of Justice will receive written comments relating to the proposed judgment for thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and refer to "*United States* v. *Sharon Steel Company*", D.J. Ref. No. 90–5–2–3–1088.

The proposed decree may be examined at the Office of the United States Attorney, United States Post Office and Courthouse, Pittsburgh, Pennsylvania at the Region III Office of the Environmental Protection Agency, Enforcement Division, Curtis Building, 6th and Walnut Streets, Philadelphia,

Pennsylvania, 19106 and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1254, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Carol E. Dinkins,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 81-17896 Filed 6-16-81; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to Section 1008 of the Controlled Substance Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 20, 1981, Sigma Chemical Company, 3500 Dekala Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration to be registered as an importer of the basic class of controlled substances listed below:

Drug and Schedule

Tetrahydrocannabinols (7370)—I
Mescaline (73481)—I
Morphine-3-Gluronide (9329)—II

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than July 15, 1981.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: June 10, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-17925 Filed 6-16-81; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Registration

By Notice dated April 17, 1981, and published in the **Federal Register** on April 24, 1981; (46 FR 23337), Ganes Chemicals, Inc., Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic class of controlled substances listed below:

Drug and Schedule

Amobarbital (2125)—II
Pentobarbital (2270)—II
Secobarbital (2315)—II

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substances listed above is granted.

Dated: June 10, 1981.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 81-17924 Filed 6-16-81; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published May 19, 1981 (46 FR 27424). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterik (*). It is expected that the sessions of the full Committee meeting designated by an asterik (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the July 1981 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, Attn: Barbara Jo White) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Advanced Reactors*, June 22–23, 1981, Park Ridge, IL. The Subcommittee will discuss matters relating to the development of LMFBR safety design criteria. Notice of this meeting was published June 5.

**Waste Management/Reactor Radiological Effects*, June 22–23, 1981, Washington, D.C. The Subcommittee will review Technical Criteria for Geologic Disposal and Research needs.

**Emergency Core Cooling Systems*, June 23–24, 1981, Idaho Falls, ID. The Subcommittee will review the NRC Programs on Loss-of-Coolant-Accident (LOCA) and Transient Research, the LOFT Facility Research Program (Loss of Fluid Test), and will also discuss the NRC's FY 1983 Reactor Safety Research Program Budget. Notice of this meeting was published June 8.

**Class-9 Accidents*, June 24, 1981, Washington, D.C. The Subcommittee will review the research budget associated with the Severe Accident

Research Program. Notice of this meeting was published June 8.

**Three Mile Island Unit 1,* June 25–26, 1981, Washington, D.C. The Subcommittee will review the restart modifications required as a result of the TMI–2 accident. Notice of this meeting was published June 8.

**Comanche Peak Steam Electric Station Units 1 and 2,* June 29, 1981, Dallas/Ft. Worth, TX. The Subcommittee will review the application of Texas Utilities Generating Company for an Operating License. Notice of this meeting was published May 19.

**Metal Components,* June 30, 1981, Richland, WA. The Subcommittee will review NRC's FY 1983 Reactor Safety Research Program Budget concerning Inservice Inspection and Steam Generator programs.

**Class–9 Accidents,* June 30, 1981, Albuquerque, NM. The Subcommittee will review the program to determine the feasibility of the use of filtered-vented containment system. Notice of this meeting was published May 19.

**Structural Engineering,* July 1, 1981, Albuquerque, NM. The Subcommittee will discuss the containment research being conducted by Los Alamos Scientific Laboratory and Sandia Laboratories.

**Decay Heat Removal System,* July 6, 1981, Washington, D.C. The Subcommittee will review Task A–45, "Shutdown Decay Heat Removal Requirements."

**Reactor Fuel,* July 7, 1981, Washington, D.C. The Subcommittee will discuss NRC Fuel Behavior Research Programs.

**Advanced Reactors,* July 7, 1981, Washington, D.C. The Subcommittee will discuss the Advanced Reactor Research Program for FY 1983.

**Electrical Systems,* July 7, 1981, Washington, D.C. The Subcommittee will review a proposed rule on Qualification of Electrical Equipment.

**NRC Safety Research Program,* July 8, 1981, Washington, D.C. The Subcommittee will discuss the ACRS Report to the Commission on the NRC FY–83 Research Program and Budget. Notice of this meeting was published May 19.

**Pilgrim Station Unit 2,* July 8, 1981, Washington, D.C. The Subcommittee will review implementation of Three Mile Island Unit 2 Action Plan.

**Advanced Reactors,* July 14–15, 1981, Park Ridge, IL. The Subcommittee will continue discussion of LMFBR design criteria.

**Shoreham Nuclear Power Station Unit 1,* July 21, 1981, Washington, D.C. The Subcommittee will discuss the application of the Long Island Lighting Company's request for an Operating License. The meeting has been relocated to Washington, D.C. Notice of this meeting was published May 19.

**Comanche Peak Steam Electric Station Units 1 and 2,* July 22, 1981, Washington, D.C. The Subcommittee will continue the review of the application of the Texas Utilities Generating Company for an Operating License.

**Susquehanna Steam Electric Station Units 1 and 2,* July 23, 1981, Washington, DC. The Subcommittee will discuss the Pennsylvania Power & Light Company's request for an Operating License. The meeting has been relocated to Washington, DC. Notice of this meeting was published May 19.

**Enrico Fermi Atomic Power Plant Unit 2,* July 24, 1981, Washington, DC. The Subcommittee will review the application of Detroit Edison Company for an Operating License.

**Reliability and Probabilistic Assessment,* July 28, 29 and 30, 1981, Los Angeles, CA. The Subcommittee will review some of the strengths and weaknesses of risk assessments and their potential for use in the design and licensing processes. Notice of this meeting was published May 19.

**Regulatory Activities,* August 3, 1981, Washington, DC. The Subcommittee will will review Proposed Regulatory Guides.

**Program Management and Plan,* August 4, 1981, Washington, DC. The Subcommittee will make comments on implementation of PL 96–567, Nuclear Safety Research, Development, and Demonstration Act of 1980, by Department of Energy.

**Waterford Steam Electric Station Unit No. 3,* August 4, 1981, Washington, DC. The Subcommittee will continue review of the application by Louisiana Power and Light Company for an Operating License.

**Emergency Core Cooling Systems,* August 27–28, 1981, Monterey, CA. The Subcommittee will discuss various topics related to the NRC Nuclear Reactor Regulation's Emergency Core Cooling Systems, licensing matters and General Electric's proposed revisions to their Emergency Core Cooling System model.

ACRS Full Committee Meetings

July 9–11, 1981—Items are *tentatively* scheduled.

*A. *Three Mile Island Nuclear Station Unit 1*—resumption of opertions.

*B. *Pilgrim Station Unit 2*—application of Three Mile Island Unit 2 Lessons Learned.

*C. *NRC Safety Research Program*—completes ACRS report to NRC regarding the proposed Safety Research Program Budget for FY 1983.

*D. *Requirement for Future Nuclear Plants*—discuss proposed ACRS report to NRC regarding revised design requirements for future nuclear power plants.

*E. *Improved Safety Features*—discuss NRC staff evaluation of improved safety features for the Zion Nuclear Station and the Indian Point Nuclear Power Station.

*F. *Decay Heat Removal Systems*—discuss proposed NRC Task Action Plan to improve the performance and reliability of decay heat removal systems in nuclear power plants.

August 5–8, 1981: Agenda to be announced.

September 10–12, 1981: Agenda to be announced.

Dated: June 12, 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81–18020 Filed 6–16–81; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–237, 50–249, EA 81–02]

Commonwealth Edison Co. (Dresden Nuclear Power Facility, Units 2 & 3); Settlement of Proceeding on Order Imposing Civil Monetary Penalty

I

Commonwealth Edison Company (the "licensee") holds Operating License Nos. DPR–19 and DPR–25, which authorize the operation of Units 2 and 3 of the Dresden Nuclear Power Facility in Grundy County, Illinois. These licenses were issued respectively on December 22, 1969, and January 13, 1971. Units 2 and 3 are boiling water reactors, each of which is authorized to operate at power levels not in excess of 2527 megawatts thermal (rated power).

II

During an inspection of the licensee's activities at the Dresden facility on August 8, 1980, an apparent item of noncompliance was identified with the requirements of 10 CFR Part 50. A written Notice of Violation and Proposed Imposition of civil penalty was served on the licensee on October 20, 1980, in accordance with section 234 of the Atomic Energy Act, as amended (42 U.S.C. 2282, Pub. L. No. 96–195), 10 CFR 2.201, and 10 CFR 2.205 of the Commission's regulations. The Notice proposed a civil penalty in the amount of $40,000. The licensee answered the Notice on November 24, 1980. Upon consideration of the licensee's answer, the Director of the Office of Inspection

and Enforcement determined to impose the penalty proposed in the Notice for the particular item of noncompliance. Accordingly, the Director ordered the licensee on February 23, 1981, to pay a civil penalty in the amount of $40,000. In a letter of March 19, 1981, the licensee requested a hearing in accordance with the terms of the Director's February 23rd Order and 10 CFR 2.205.

III

On the basis of their reconsideration of the aplicable evidence, regulatory requirements, and policy, the Office of Inspection and Enforcement and Commonwealth Edison Company have reached agreement with respect to the following matters:

1. While the operators may not have been sleeping when the NRC inspector observed them at about 6:00 a.m. on August 8, 1980, the operators appeared to be asleep in that they were resting their heads on their arms on their desks. The operators later indicated that they were drowsy and were fighting sleep. As such, the operators lacked the degree of alertness required by the licensee and the NRC in performance of operational duties in the control room of a nuclear power reactor.

2. The operators were physically present in the control room as required by 10 CFR 50.54(k) and Dresden Station Technical Specifications, Chapter 6.1 & Table 6.1.1. However, under criterion V of 10 CFR Part 50, App. B, the licensee must have and implement procedures to ensure that activities affecting quality, including operation of the facility, are satisfactorily accomplished. The Dresden Station Technical Specifications, Chapter 6.2.A.1., require that the licensee have and adhere to procedures covering normal operation of the facility. On August 8, 1980, the licensee had in effect Procedure DAP 7–2 (Rev. 6), which requires that operators "be in a position to monitor plant parameters" during normal plant operation. The licensee also had in effect Nuclear Stations Division Manager's Directive No. 013 (Rev. August 8, 1979), "Conduct of Shift Operations," which required that "control room operators shall be attentive to their panels and execute their duties in a professional manner." As described in paragraph 1, the operators on duty did not maintain the degree of alertness that is required under the licensee's procedure and directive to enable the operators to execute their duties.

3. The licensee took corrective action upon learning of the incident. The licensee gave the operators a formal oral warning concerning the seriousness of the incident. The licensee also sent a memorandum on August 22, 1980, to all operating shift supervisors and nuclear station operations on the subject of sleeping and operator alertness. The memorandum reemphasizes the requirement that operators be alert and capable of performing their duties. The memorandum also prescribes procedures to provide prompt relief of operators from their duty stations to combat drowsiness or inattentiveness. The licensee issued revised versions of Procedure DAP 7–2 (Rev. 7, Oct. 31, 1980) and Directive No. 013 (Rev. Nov. 1, 1980) which underscore the requirement for operator alertness and indicate specifically "sleeping" and "habitual" or chronic lack of attentiveness" as examples of conduct which will be subject to severe disciplinary action, including possible discharge from the company.

4. The severity level of the violation was considered by NRC to be Severity Level III. On the basis of the available evidence, arguments can be made as to whether the operators' lack of attentiveness should be categorized as a Severity Level III or Severity Level IV violation.

In consideration of the foregoing matters and in the interest of concluding this proceeding, the Office of Inspection and Enforcement and Commonwealth Edison Company have agreed to settle this proceeding under the following terms:

(1) The Director of the Office of Inspection and Enforcement will mitigate the civil penalty imposed by the Order of February 23, 1981, from $40,000 to $18,000; and

(2) Commonwealth Edison Company will pay a civil penalty in the amount of $18,000, and will withdraw its request for a hearing of March 19, 1981.

IV

In view of the foregoing agreement and settlement, and pursuant to section 234 of the Atomic Energy Act, as amended, and 10 CFR 2.205, it is hereby ordered that the Order of February 23, 1981, is modified to require the licensee to pay a civil penalty in the total amount of Eighteen Thousand Dollars ($18,000) in the manner prescribed in the Order of February 23, 1981.

The proceedings on the Order of February 23, 1981, are hereby terminated.

Dated at Bethesda, Maryland this 10th day of June, 1981.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Acting Director, Office of Inspection and Enforcement.

[FR Doc. 81-18021 Filed 6-16-81; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/417]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on July 9, 1981, of the Working Group on Preparations for the UN Conference on New and Renewable Sources of Energy scheduled for Nairobi, Kenya, in August, 1981, of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 9:30 a.m. to 1:00 p.m. The meeting will be held in Room 1107 of the State Department, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to review the status of preparations for the UN Conference and to consider the role the U.S. private sector can play in a program of action for the UN Conference.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., 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) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln'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: June 4, 1981.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 81-17969 Filed 6-16-81; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/416]

Study Group A of the U.S. Organization for the International Telegraph & Telephone Consultative Committee (CCITT); Meeting

The Department of States announces that Study Group A of the U.S. Organization for the International

Telegraph and Telephone Consultative Committee (CCITT) will meet on June 30, 1981 at 10 a.m. in Room A–110, of the Federal Communications Commission, 1225 20th Street NW., Washington, D.C. This Study Group will deal with U.S. Government aspects of international telegram and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international CCITT meetings. In particular, this meeting of Study Group A will examine the questions and contributions relating to the upcoming September meeting of CCITT Study Group III.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Earl S. Barbely, Federal Communications Commission, Washington, D.C., telephone (202) 632–3214.

Dated: June 8, 1981.

Richard H. Howarth,

Chairman, U.S. CCITT National Committee.

[FR Doc. 81-17970 Filed 6-16-81; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Fiscal Service

Treasury Current Value of Funds Rate

AGENCY: Bureau of Government Financial Operations.

ACTION: Notice of rate for use in Federal cash management operations.

SUMMARY: This notice publicizes the percentage rate based on the current value of funds to the Treasury. This rate (updated quarterly) is required by the Treasury Fiscal Requirements Manual (I TFRM 6–8000) to be used in Federal billing, collection, and disbursement operations, and is provided here as public notice to assist agencies in their negotiations with affected contractors, organizations, and individuals. The applicable rate is 16.19%.

DATES: The rate will be in effect for the period beginning on July 1, 1981 and ending on September 30, 1981.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to the Cash Management Regulations and Compliance Staff, Bureau of Government Financial Operations, Department of the Treasury, Treasury Annex No. 1, Washington, D.C. 20226 (Telephone: 202/566–8251).

SUPPLEMENTARY INFORMATION: Revisions to I TFRM 6–8000 in June 1980 provided that the current value of funds rate would be used in assessing charges for all late payments to the Government (except where prohibited by law or where a different rule is prescribed by statute), and in determining whether it is cost effective for the Government to avail itself of prompt payment discounts. This rate reflects the short-term value of funds to the Treasury and is based on rates set for purposes of Pub. L. 95–147, 91 Stat. 1227. It should be noted that the Federal Claims Collection Standards (4 CFR 102.1) also require that interest be charged on delinquent debts and debts being paid in installments in accordance with I TFRM 6–8000.

Dated: June 11, 1981.

W. E. Douglas,

Commissioner.

[FR Doc. 81-17971 Filed 6-16-81; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

[Department Circular Public Debt Series No. 17–81]

Treasury Notes of June 30, 1983, Series S–1983; Invitation for Tenders

Washington, June 11, 1981.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,250,000,000 of United States securities, designated Treasury Notes of June 30, 1983, Series S–1983 (CUSIP No. 912827 LZ 3). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated June 30, 1981, and will bear interest from that date, payable on a semiannual basis on December 31, 1981, and each subsequent 6 months on June 30 and December 31 until the principal becomes payable. They will mature June 30, 1983, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered, and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Thursday, June 18, 1981. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, June 17, 1981.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be

used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised to the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, whenever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Tuesday, June 30, 1981. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institutions to which the tender was submitted, which must be received from institutional investors no later than Friday, June 26, 1981. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date,

purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public anouncement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

[FR Doc. 81-18084 Filed 6-15-81; 2:15 pm]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 116
Wednesday, June 17, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. Monday, June 22, 1981, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Application for consent to establish a branch:

The Howard Savings Bank, Newark, New Jersey, for consent to establish a branch at the southwest corner of Cherry Street and Lacey Road, Manchester Township, New Jersey.

Applications for consent to merge, establish five branches, redesignate main office location, issue convertible subordinated capital notes as an addition to capital, and for advance consent to retire or convert capital notes:

Continental Bank of New Jersey, Gloucester Township (P.O. Laurel Springs), New Jersey, an insured State nonmember bank, for consent to merge, under its charter and title, with The Mainland Bank, Linwood, New Jersey; for consent to establish the five offices of The Mainland Bank as branches of the resultant bank; for consent to redesignate the main office location of the resultant bank to the present site of the main office of The Mainland Bank; for consent to issue convertible subordinated capital notes as an addition to the capital structure of the resultant bank; and for advance consent to their retirement at maturity or for their conversion into new common stock of the resultant bank.

Request for relief from adjustment for violations of Regulation Z:

Name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)).

Recommendation regarding the liquidation of a bank's assets acquired by the corporation in its capacity, as receiver, liquidator, or liquidating agent of those assets:

Memorandum and resolution re: Tri-City Bank, Warren, Mich.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of the subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Reports of committees and officers:

Report of Director, Division of Liquidation: Memorandum re: Reports Required Under Delegated Authority; Sale of Lots.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: June 15, 1981.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-939-81 Filed 6-15-81; 11:49 am]
BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, June 22, 1981, to consider the following matters:

Disposition of minutes of previous meetings.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Bronson, Bronson & McKinnon, San Francisco, California, in connection with the receivership of United States National Bank, San Diego, California.
Morrison, Hecker, Curtis, Kuder & Parrish, Kansas City, Missouri, in connection with the liquidation of The Mission State Bank and Trust Company, Mission, Kansas.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,802–CP—The First State Bank of Westmont, Westmont, Illinois.
Case No. 44,827–SR—Citizens State Bank, Carrizo Springs, Texas.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: June 15, 1981.

Hoyle L. Robinson,

Executive Secretary.

[S-938-81 Filed 6-15-81; 11:48 a.m.]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 10 a.m., Monday, June 22, 1981.

PLACE: 1700 G Street NW., Board Room, 6th Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED: The following items will be on the Bank Board meeting for Monday, June 22, 1981.

Application for Bank Membership—Coastal Savings Bank (Mutual), Portland, Maine.
Recommendation for Designation of Robert S. Warwick as a Supervisory Agent—Federal Home Loan Bank of Atlanta.
Application for Bank Membership and Insurance of Accounts—Sentinel Savings and Loan Association, Sonora, California.
Bank Membership and Insurance of Accounts—City Savings Association (Stock), League City, Texas.
Request for a Commitment to Insure Accounts—Emory W. Bitzer, et al. (Allstate S&LA in Organization) Ocala, Florida (New State Charter-Stock).
Amendment to Resolution Conversion of—Redwood Pacific Savings and Loan Association, Rohnert Park, California, and merger with Bay View Federal Savings and Loan Association, San Mateo, California.
Request for a Commitment to Insure Accounts—Andrew Oravec, Jr., *et al.* (Liberty S&L, in Organization) Port Richey, Florida (New-State Charter Stock).
Concurrent Branch Office Applications from—1. Biscayne Federal Savings and Loan Association (Stock), Miami, Florida, and 2. Biscayne Federal Savings and Loan Association (Stock), Miami, Florida.

Open Meeting Continue:

Merger: Increase of Accounts of an Insurable Type—Fidelity Building and Loan Company (Mutual), Chillicothe, Ohio *and* Hub Federal Savings and Loan Association (Mutual), Columbus, Ohio *and* Central Ohio Federal Savings and Loan Association (Mutual), Columbus, Ohio *into* Ohio State Federal Savings and Loan Association (Mutual), Columbus, Ohio.
Branch Office Application—Windom Federal Savings and Loan Association, Windom, Minnesota (Mountain Lake Location).
Branch Office Application—Windom Federal Savings and Loan Association, Windom, Minnesota (Windom Location).
Proposed Merger and Increase in Accounts of an Insurable Type—Citizens Savings (Mutual) Belleville, Illinois *and* Quincy-Peoples Savings and Loan Association (Mutual), Quincy, Illinois *into* American Savings and Loan Association of Springfield (Mutual) Springfield, Illinois.
Proposed Merger—Orange Belt Federal Savings and Loan Association, Colton, California, *into* Redlands Federal Savings and Loan Association, Redlands, California.
Bank Membership and Insurance of Accounts—Placentia Linda Savings and Loan Association, Placentia, California.
Preliminary Application for Merger; Maintenance of Branch Offices; Cancellation of Membership and Insurance; and Transfer of Stock—United Savings and Loan Association (Mutual), Oceanside, New York *into* Beacon Federal Savings and Loan Association (Mutual), Baldwin, New York.

No. 502, June 15, 1981.

[S-936-81 Filed 6-15-81; 10:07 am]

BILLING CODE 6720-01-M

4

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Monday, June 22, 1981.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Request by the General Accounting Office for Board comment on a draft report concerning reporting requirements of the Bank Secrecy Act of 1970.
2. Request by the General Accounting Office for Board comment on a draft report concerning Federal credit programs.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: June 12, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-934-81 Filed 6-12-81; 4:19 pm]

BILLING CODE 6210-01-M

5

NUCLEAR REGULATORY COMMISSION.

DATE: Week of June 15, 1981 (Revised).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/Close.

MATTERS TO BE CONSIDERED:

Tuesday, June 16

10 a.m.—1. Discussion and Possible Vote on 10 CFR 60, Disposal of High-Level Radioactive Wastes in Geologic Repositories: Technical Criteria (public meeting) (continued from June 11).

2 p.m.—1. Discussion of Anticipated Transients Without Scram (public meeting) (previously announced for June 17).

Wednesday, June 17

10 a.m.—1. Briefing on Criterion I in Export Licensing (closed meeting) (previously announced for June 16).
2:30 p.m.—1. Discussion and Possible Vote on Operating License for Sequoyah-2 (public meeting) (continued from June 9).

Thursday, June 18

2 p.m.
1.—Discussion of Revisions to Reactor Operator Qualifications (approximately 1½ hours) (public meeting).
2.—Affirmation/Discussion Session (public meeting). Items to be affirmed and/or discussed:
a. CESG's Motion to Permit Appeal of Atomic Safety and Licensing Board's Memorandum and Order
b. 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste"
c. Significant Changes Decision in Summer Antitrust Matter (delayed from June 11)
d. Pub. of Guidelines for Mgmt. of Agreement State Radiation Control Programs (delayed from June 11)
e. Review of ALAB-639 (In the matter of Houston Lighting and Power Co.)

Friday, June 19

10 a.m.—1. Discussion and Possible Vote on Operating License for McGuire (closed meeting).

ADDITIONAL INFORMATION: By a vote of 3-0 (Chairman Hendrie abstaining) on June 10, 1981, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules, that Commission business required that Discussion and Vote on Motion for a Stay of Certain Aspects of Final Rule on Fire Protection for Operating Nuclear Power Plants (closed meeting), held that day, be held on less than one week's notice to the public.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary Gilbert (202) 634-1410.

Gary M. Gilbert,

Office of the Secretary.

June 11, 1981.

[S-935-81 Filed 6-12-81; 4:32 pm]

BILLING CODE 7590-01-M

6

POSTAL SERVICE (BOARD OF GOVERNORS)

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the

Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a special meeting at 8 a.m. on Monday, June 22, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632. The only agenda item to be considered at this meeting is for the Board to consider the June 4, 1981, Opinion and Recommended Decision Upon Reconsideration of the Postal Rate Commission encaptioned Postal Rate and Fee Changes, 1980 (Commission Docket R80–1).

It is noted that the Government in the Sunshine Act provides that an agency may close a portion of a meeting to the public, following public announcement of the time, place, and subject matter of the meeting, under certain circumstances. It is possible that the Board may determine on June 22 that the nature of its discussion requires closure of a portion of this meeting, having in mind that the instant rate proceeding is in litigation.

Louis A. Cox,

Secretary.

[S-937-81 Filed 6-15-81; 8:45 am]

BILLING CODE 6610-12-M

federal register

Wednesday
June 17, 1981

Part II

Department of the Interior

Fish and Wildlife Service

Alaska National Wildlife Refuges; Interim Management Regulations

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

Alaska National Wildlife Refuges; Interim Management Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule provides interim management regulations for the sixteen Alaska National Wildlife Refuges. The rule: (1) Relieves those restrictions imposed by the general National Wildlife Refuge System regulations that are generally inappropriate in Alaska, (2) implements and clarifies a number of provisions of the Alaska Lands Act that are of immediate importance to Alaskans and the general public, and (3) clarifies what public activities are authorized in Alaska National Wildlife Refuges. These regulations are the minimum necessary for interim administration of the Alaska refuges.

EFFECTIVE DATE: June 17, 1981.

FOR FURTHER INFORMATION CONTACT: Keith Schreiner, Alaska Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99507 (907–276–3800).

SUPPLEMENTARY INFORMATION:

Background

The Alaska National Interest Lands Conservation Act, 94 Stat. 237, Pub. L. 96–487 (December 2, 1980) established, redesignated, or expanded sixteen National Wildlife Refuges in Alaska: Alaska Maritime, Alaska Peninsula, Arctic, Becharof, Innoko, Izembek, Kanuti, Kenai, Kodiak, Koyukuk, Nowitna Selawik, Tetlin, Togiak, Yukon Delta and Yukon Flats. Each of these areas is to be managed pursuant to applicable Alaska National Wildlife Refuge statutory law, most notably the National Wildlife Refuge System Administration Act, 16 U.S.C. 688dd *et seq.* and the provisions of the Alaska Lands Act.

On January 19, 1981, the Fish and Wildlife Service proposed rules to provide interim management guidelines for the Alaska National Wildlife Refuges (46 FR 5668 *et seq.*). The proposed rules addressed a limited number of items, many of which had undergone extensive public comment in other rulemakings or proceedings. (*See*, for example, 43 FR 60255 (December 26, 1978); 44 FR 11247 (February 28, 1979); 44 FR 15500 (March 14, 1979); 44 FR 37754 (June 28, 1979); 45 FR 2616 (January 11, 1980); 45 FR 14192 (March 4, 1980).) The Fish and Wildlife Service has carefully considered comments made during the course of these proceedings, and promulgates today final rules which generally are in accord with the public comments received. The public comment has proved invaluable in helping the Fish and Wildlife Service develop regulations that are workable yet flexible enough to deal with the exigencies of terrain, climate, resources and lifestyles encountered within the Alaska National Wildlife Refuges.

Need for Expeditious Rulemaking

Under the Administrative Procedure Act an agency is authorized to make a final regulation immediately effective when it relieves restrictions, is an interpretive rule, or when good cause exists for expeditious rulemaking. *See* 5 U.S.C. 553(d). The rules published today are immediately effective for the following reasons:

First, many of the provisions of these regulations relieve restrictions imposed by the general National Wildlife Refuge System regulations that are generally inappropriate in the unique Alaska setting. For example, standard restrictions on access, firearms and abandoned property are relieved by these regulations.

Second, certain portions of these regulations constitute interpretive rules giving the Department's view on existing legal duties. These interpretive rules are found in § 36.23(c).

Third, the Department has found that good cause exists for immediately effective rules. This good cause finding is based on many factors, including: (1) The need to provide definitive public guidance on permissible activities during the peak use season, (2) the need to alleviate confusion arising from directives in the Alaska Lands Act which are (or appear) inconsistent with existing regulations, (3) the need to have in place administrative procedures for obtaining statutory benefits created under the Alaska Lands Act (*e.g.* access to inholdings, temporary access, cabins) and (4) the substantial public comment received on past rules addressing the same issues, as well as public participation in legislation culminating in enactment of the Alaska Lands Act.

Summary of Comments

The January 19, 1981 proposed rules solicited comments for 45 days on the issues addressed therein (46 FR 5668). The comment period was subsequently extended until March 16, 1981 (46 FR 14021). During this period the Fish and Wildlife Service received 145 written comments on the proposed rule. Written comments were received from 97 individuals, from 33 states, 2 corporations and businesses, 24 organizations, 17 local government entities, the State of Alaska, the Alaska Congressional Delegation, the Environmental Protection Agency, the Air Force, and the Heritage Conservation and Recreation Service.

Analysis of Comments

Subpart A—Introduction and General Provisions

Applicability and Scope

Several commenters argued that the management regime created by the Alaska Lands Act and these regulations should have no effect on refuges, such as the Kenai Range, established prior to December 2, 1980. Specifically, they argued that neither the Act nor these regulations should be interpreted as amending existing special regulations in effect for these areas. The provisions of the Alaska Lands Act apply to all Alaska refuges; a generic distinction between old and new refuges is not legally supportable. The Service, however, does retain the discretion to adopt special regulations for individual refuges consistent with the provisions of the Alaska Lands Act and other statutory law. Existing special regulations remain in force and effect except as amended by the Alaska Lands Act and/or these regulations.

Several commenters suggested that the rules should apply only to "public lands" rather than "federally owned lands or interests." The Service has not accepted these comments. Sections 103(c) and 906(o) of the Alaska Lands Act generally restrict the applicability of Fish and Wildlife Service regulations to federally owned lands and interests within the boundaries of Alaska National Wildlife Refuges. Consistent with the Act and the explanatory legislative history (126 Cong. Rec. H11115 (daily ed. Nov. 21, 1980) and 126 Cong. Rec. S15150–51 (daily ed Dec. 1, 1980)), § 36.1(b) restricts the applicability of these regulations to "federally owned" lands, which is defined to include all interest held by the Federal government. With the legislative conveyance of 98 million acres of State selections in section 906 of the Act, no unconveyed State selections remain within the Alaskan refuges. Therefore, generally no State selected and conveyed lands within the boundaries of the Alaska National Wildlife Refuges will be subject to the provisions of these rules. Similarly, land interests interimly conveyed or patented to natives under the Alaska Native

Claims Settlement Act, where such interests are located within the boundaries of areas initially added to the National Wildlife Refuge System by the Alaska Lands Act, would not be affected by these regulations. Other private, patented inholdings within the Alaska National Wildlife Refuges would also generally not be subject to these rules.

Definitions

Many comments objected to the definition of "adequate and feasible access" which appeared in the proposed rule on the grounds that it would authorize the Fish and Wildlife Service to determine what is a "reasonable use or development" for an inholding. The definition has been revised to clarify that the inholder determines the desired land use or development of his property, and the Service provides reasonable access to meet the desired land use.

Section 1110(a) of the Alaska Lands Act authorizes the use of snowmachines for traditional activities and travel to and from villages and homesites during periods of adequate snow cover or frozen river conditions. In response to a number of comments, the Service has defined "adequate snow cover" as snow of sufficient depth to protect the underlying vegetation and soil.

Several comments suggested that the definition of "fish and wildlife" should specifically exclude domestic and exotic animals. Although the definition remains unchanged consistent with the specific language of the Alaska Lands Act (Section 102 (17)), the Service recognizes the clearly expressed congressional intent that the term does not include those animals the Service determines to be exotic or domestic (126 Cong. Rec. H10543 (daily ed. Nov. 12, 1980)). *See also* 46 FR 5669.

A few commenters suggested that the regulations should use and define the term "snowmachine", a term appearing in section 1110(a) of the Alaska Lands Act. The Service has adopted this suggestion by defining "snowmachine" in terms parallel to "snowmobile."

Subpart B—Subsistence Uses

General Comments

The Alaskan Congressional Delegation, the State of Alaska, and a number of sportsmen's groups opposed promulgation of any rules addressing subsistence, especially in the one year period provided by section 805(d) of the Alaska Lands Act for the State to establish an adequate subsistence program. Each commenter expressed concern that federal regulations could foreclose the State in development of its program.

The Fish and Wildlife Service is sensitive to these concerns and therefore, has retained the narrow approach articulated in the proposed rules, one that addresses only issues of immediate importance or those definitively treated by the Alaska Lands Act. While the National Park Service is compelled by the Alaska Lands Act to distinguish subsistence users who are permitted to hunt within parks from others who are not, the Fish and Wildlife Service is under no such legal obligation. Accordingly, these regulations do not define "local rural resident" or establish an administrative procedure to distinguish such persons from other members of the public. Similarly, the regulations do not create an administrative framework to implement the subsistence priority required by section 804 of the Act. The regulations treat those subsistence issues of immediate importance in a manner calculated not to foreclose the State of Alaska's discretion in implementing its subsistence program. This restrained approach is consistent with the Fish and Wildlife Service's view that the subsistence issue is one best treated by the State. The Service looks forward to Secretarial approval of a State subsistence program implementing the requirements of the Alaska Lands Act.

Several native organizations urged the Fish and Wildlife Service to adopt regulations implementing Alaska Lands Act section 806 on "Federal Monitoring," section 807 on "Judicial Enforcement," and section 812 on "Research." Although the Service appreciates the importance of these statutory provisions, it determined during preparation of the proposed rules that these provisions do not lend themselves to expeditious implementation since they have not previously been the subject of notice and comment. The Alaska Congressional Delegation commented that proposed § 36.37 implementing section 810 of the Alaska Lands Act should be deleted for the same reason; they also pointed out that the proposed regulation did nothing more than repeat section 810 of the Act verbatim. For these reasons, today's final regulations do not contain provisions implementing sections 806, 807, 810 and 812 of the Act. It should be emphasized, however, that all parties must comply with these statutory provisions as long as they remain in effect.

Purpose and Policy

The Fish and Wildlife Service received various recommendations for acknowledgement in the regulations of the State of Alaska's role in regulation of fish and wildlife for subsistence uses within Alaska refuges. In response, the Service is promulgating § 36.11(d) which recognizes State regulation of the taking of fish and wildlife in Alaska refuges consistent with applicable Federal law, including the Alaska Lands Act. For example, the Service expects the State to continue to regulate seasons and bag limits in refuge areas. Furthermore, as mentioned above, the Fish and Wildlife Service anticipates that a State subsistence program implementing the Alaska Lands Act's various substantive mandates will be approved.

One commenter requested that the Fish and Wildlife Service define the term "healthy populations" used in several instances in this section. The Service has not accepted this suggestion in the context of these interim rules. Guidance as to the meaning of this term is found in the Alaska Lands Act legislative history, which is quoted in relevant portion in the section-by-section analysis.

Definitions

Most comments on the definition of "subsistence uses" concerned the Fish and Wildlife Service's proposed definition of "customary trade." In general, the comments indicated strong support for the Service's inclusion of fur trading within the term. Three commenters objected, however, that the definition was too limited. For example, one commenter wrote that

> [c]ustomary trade in Alaska is involved in more than the exchange of furs for cash. Quite often there is trade for specific items or merchandise including food and fuel.

The definition of "subsistence uses" adequately covers these concerns in its provision for "barter". The "barter" definition, taken verbatim from Section 803 of the Alaska Lands Act, allows local rural residents to trade furs for fish, game, food, or nonedible items other than money for personal or family consumption. The Fish and Wildlife Service's definition of "customary trade" serves to expand the permissible exchange to include, in addition, furs for cash. One rural group, however, pointed out a customary trade practice that the proposed definition of "subsistence uses" did not cover: The customary and traditional making and selling of certain handicraft articles out of plant materials. In response to the comment, the Service specifically defines "customary trade" to include the exchange of furs for cash and authorizes Refuge Managers to specify in special

regulations other activities, if any, that fall within the scope of that term.

Use of Snowmobiles, Motorboats and Other Means of Surface Transportation Traditionally Employed by Local Rural Residents Engaged in Subsistence Uses

Several commenters argued that subsistence access modes should not be limited to those "traditionally employed" by local rural residents. The Service has retained this term, since it parallels the language of the subsistence access section (811(b)) of the Alaska Lands Act.

A number of commenters suggested that the regulations should specify that the use of dogsleds is authorized within Alaska refuges for subsistence uses. This suggestion comports with relevant legislative history and has been adopted.

The allowed use of motorized surface transportation in accordance with the provisions of § 36.12 evoked two objections. One organization commented that "the use of snowmobiles, motorboats and off-road vehicle is * * * abhorrent to the notion of subsistence hunting * * *." Section 811(b) of the Alaska Lands Act, however, mandates the Secretary to allow "appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation." Section 36.12 implements this statutory mandate, highlights its limitations and provides for appropriate restrictions, closures, and regulation. Another organization recommended that the Fish and Wildlife Service prohibit motorized surface transportation other than snowmachines and motorboats (*e.g.*, ATV's) except by permit upon a demonstration of "traditional use" by the local rural resident. The Service has decided against this recommendation for this rulemaking exercise since (1) the Service wants to avoid another permit requirement, if possible, (2) the restrictions, closure, and other regulatory provisions of § 36.12 should adequately protect refuge values, at least for this interim period, and (3) the Service would not adopt such a new proposal without additional notice and comment.

Subsistence use of Timber and Plant Material

Many comments suggested that the cutting of live standing timber for subsistence uses should require a prior issuance of a permit by the Refuge Manager in the manner proposed by the National Park Service. The Service agrees that a permit requirement is necessary in some cases to protect refuge resources. However, the cutting of small timber for casual uses does not present a resource problem, and imposition of such a requirement would be onerous to users. Accordingly, the regulations require a permit only for the cutting of live standing timber of diameter greater than three inches at ground height.

Closure

In response to comments asking for increased notice, local consultation, and hearings the Fish and Wildlife Service has made minor changes in § 36.16 that underscore the Service's intent to provide effective and meaningful notice and hearing in the affected vicinity "and other locations as appropriate."

One group objected to the "public safety" standard for closure on the grounds that "normally occurring accidents" should not be the reason for closure. The Service has not deleted this standard. The Alaska Lands Act establishes it as one of three closure standards for subsistence uses of fish and wildlife. In its experience, moreover, the Fish and Wildlife Service has found "public safety" to be a very important reason for closure. For example, in the case of subsistence hunting, allowing hunting in the immediate vicinity of a well-used hiking trail or camping site at certain times of the year might unnecessarily endanger lives. Or, in the case of snowmobiles, allowing snowmobiling in an area endangered by earthquake or avalanche would similarly risk lives. The closure provisions have many procedural and substantive provisions intended to insure that the closure is sufficiently justified and well discussed.

Subpart C—Use of Motorized Vehicles and Access

Snowmachines

Many commenters objected to the use of snowmachines within Alaskan refuges, or suggested that snowmachine use be restricted to that specifically mandated by the Alaska Lands Act. The Service is without legal authority to adopt the restrictive approach suggested by the former comments, since section 1110(a) of the Alaska Lands Act authorizes snowmachine use in all Alaska refuges for "traditional activities" and "travel to and from villages and homesites". The Service has adopted the latter suggestion—that of tracking the section language quoted above. For those activities not within the scope of section 1110(a), the Service must comply with other applicable law, notably Executive Order 11644. The Service has determined that the findings required by the Executive Order for the general opening of areas to snowmachines use (as proposed in the January 19, 1981 regulations) cannot factually be made at this time. Consequently, as a legal matter snowmachine use may be authorized only during periods of adequate snowcover or frozen river conditions for traditional activities which are still permitted in refuge areas (snowmachine use to locate new mining claims would not be authorized, since that land use is prohibited by section 304 of the Alaska Lands Act) and travel to and from villages and homesites.

Motorboats

A few commenters recommended that the Service require a permit for the use of motorboats on Alaska National Wildlife Refuges. The Service has not adopted that suggestion at this time. If motorboat use problems arise in the future, they may be dealt with on a case-by-case basis through the issuance of a refuge special regulation.

Nonmotorized Surface Transportation

A number of commenters suggested that § 36.21 be expanded to specifically authorize the use of nonmotorized surface transportation on Alaska refuges. This suggestion, which parallels the requirements of section 1110(a) of the Alaska Lands Act, was adopted.

Aircraft

The Fish and Wildlife Service received a large number of comments recommending that helicopter use be authorized only after issuance of a permit by the Refuge Manager. This recommendation has been adopted for helicopter use other than at designated areas because of the direct and indirect effects of that activity on wildlife. The Service will solicit only that information from helicopter users that is necessary to insure the conservation of refuge resources.

One commenter suggested that the downed aircraft subsection should be modified to require only that such aircraft "may be required to be removed." The Service is not adopting this recommendation since it would eviscerate the waiver requirement of the subsection—the Refuge Manager may waive the requirements of the section upon a determination that the removal of downed aircraft would constitute an unacceptable risk to human life, result in extensive resource damage, or is otherwise impractical or impossible.

Off-Road Vehicles

Several organizations recommended that the regulations authorize ORV use on existing trails. The Service is without legal authority to authorize such uses across the board because of a number of statutory and executive requirements, such as Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) and the Wilderness Act. However, the Service has adopted an ORV permit procedure which offers the maximum ORV use allowable under current law. Under this procedure, individuals can obtain permits for ORV use on existing trails in nonwilderness refuge areas after the Refuge Manager's finding of compatibility with refuge purposes. The Service also notes that persons desiring the opening of specific ORV trails may petition the Department to initiate this process under 43 CFR 14.6. Until such trail and/or area openings occur, off-road use is prohibited except by permit or pursuant to § 36.27.

Many commenters recommended that this section be modified to authorize the Service to designate only "routes" for ORV use, and not "areas." Several expressed concern that the inclusion of the latter term would leave the Refuge Manager vulnerable to suggestions that vast portions of Alaska refuges be open to ORV use. The Service has not adopted this suggestion; the designation of "areas" tracks the language of Executive Order 11644.

Access to Inholdings

Several comments indicated confusion over the scope of this section. The section has been revised to make clear that an access permit is required only when the inholder desires an access method that is not authorized by other provisions of these regulations. Consequently, the modes of access authorized by §§ 36.21 and 36.22 should greatly reduce the number of access permits that are required.

One commenter suggested the deletion of the reference in section 36.23(a) to alienating Federal property. This suggestion has been adopted solely for editorial reasons since it is unnecessary.

Many commenters argued that the proposed access permit information requirements were unduly onerous. The Service, in response to these comments, has significantly pared down the amount of information to be solicited from applicants. The application requirements published today are geared to obtaining information on whether the applicant has a valid property or occupancy interest as required by Alaska Lands Act section 1110(b), the location of that interest, the applicant's desired route and method of access and, when deemed necessary by the Refuge Manager, information on access alternatives and environmental impacts.

Several commenters objected to the requirement that the access permit be renewed in cases where no change in circumstances had occurred. This suggestion has been effectively accepted. Permit holders are required, however, to notify the Refuge Manager of any significant change in the method or level of access from that occurring at the time of issuance. The Service may modify the terms and conditions of the access permit in these cases, subject to the requirement that the modified permit must also assure "adequate feasible access."

A number of comments objected to the special information requirements for mineral assessment or development that appeared in the proposed rules.

This comment has been accepted. The information requirements of § 36.23(b) are sufficiently flexible to permit the Service to solicit that information relevant to authorize adequate and feasible access.

Many commenters argued that the distinction made in the proposed rules between ordinary access to inholdings and permanent access is not supported by applicable law. The revised § 36.23(c) responds to these comments, addresses access requiring permanent improvements on refuge lands (*e.g.* road or bridge construction) and is an interpretive rule on the relationship between Alaska Lands Act section 1110(b) access to inholdings and section 1101–1107 "transportation or utility system". The proposed rules had intimated that permanent improvements could not be a part of the Alaska Lands Act section 1110(b) access guarantee and had inappropriately referenced 50 CFR Chapter I, Subchapter C, Part 29 as the controlling rules for applying for permanent rights-of-way. The revised section also requires that an application for a "transportation or utility system" (a term defined in section 1102 of the Alaska Lands Act, the legislative history, and this subsection) be submitted on a consolidated application form, as required by section 1104 of the Alaska Lands Act. If a permanent improvement is required for adequate and feasible access to an inholding (*e.g.* a landing strip or road construction) within the meaning of Alaska Lands Act section 1110(b), then the recovery rights for the permanent improvement will be granted following *procedural* compliance with Alaska Lands Act section 1104—a relatively simple form must be completed and submitted. Conversely, if this permanent improvement is not necessary for section 1110(b) access to inholdings (*e.g.* requests for powerlines and pipelines, or a request for a 4 lane highway to a recreational cabin), then both the procedural and substantive elements of Alaska Lands Act section 1104–1107 will be applicable in determining whether to authorize the permanent improvement.

Temporary Access

Many commenters favored reducing the application information requirements for temporary access. As in the case of § 36.23, this suggestion has been accepted, and no special information is requested from mineral exploration and development applicants.

Several commenters questioned the definition of "temporary access" in the proposed rules. The final rules respond to these comments by defining temporary access as limited, short term (up to one year) access, which does not require permanent facilities for access to undeveloped non-federal lands. Unlike access to inholdings under § 36.23, temporary access can be denied or conditioned where there would be permanent harm to refuge resources.

Subpart D—Other Refuge Uses

Recreational Activities

Several commenters suggested that this section should be modified to specifically authorize gold panning. The final rules adopt the substance of this suggestion by authorizing recreational gold panning that does not involve surface disturbance. Accordingly, the use of hand held gold pans is authorized; the use of sluice boxes, shovels, pick axes and dredges is prohibited.

Cabins and Other Structures

A few commenters objected to the prohibition on the construction of new cabins on federally owned land within Alaska refuges except as authorized pursuant to a non-tranferable, five year special use permit. This requirement has not been changed since it is mandated by section 1303 of the Alaska Lands Act.

Several commenters objected to the § 36.33(b)(1) requirement of listing immediate family members residing in the cabin. This requirement has been retained since the Service believes this information is essential for accurate permit renewals to family members, and is necessary to protect the occupying interest of the immediate family. As individuals are added to the immediate family, they will be added to this listing.

Unattended Property

Comments on this issue addressed the length of time one should generally be authorized to leave unattended property within Alaska refuges, suggestions ranging from 7 days to 24 months. The Service has retained the 1 year standard of the proposed rules. The Service notes that it has authority to close areas to this use in appropriate circumstances.

Subsistence and Land Use Decision

Several comments suggested that this provision be deleted since it merely restates the requirements of section 810 of the Alaska Lands Act; other comments suggested that the provision be moved to subpart A to clarify its legislatively intended scope. The Service has decided to delete this section for reasons addressed in the subsistence section above, but recognizes its application to Service activities.

Subpart E—Permits and Public Participation and Closure Procedures

Permits

A number of comments requested that permit decisions be made as expeditiously as possible. In response to the sentiment expressed by these comments, the final rules require the Refuge Manager to approve or deny the permit, or request additional information within 45 days unless good cause exists for not meeting this target date.

Several commenters suggested that the Refuge Manager's decision should be supported by a written document setting forth the basis of his decision in order to facilitate later review. This comment has been accepted. The Service has also established a requirement that if a permit application is denied, the Refuge Manager is to notify the applicant in writing of the reasons for this denial.

A few comments recommended that the rules authorize appeals from the Refuge Manager's decision within 180 days of permit denial rather than the 60 day period established in the proposed regulations. This recommendation has been accepted since the shorter appeal time benefits neither the applicant or the government.

Several commenters argued that applicants should be afforded an informal meeting with the Regional Directors as a matter of right. The proposed rules authorized such a meeting only if certain standards were met. The Service has accepted the recommendation in an effort to allow the applicant another forum to present whatever information is available that is relevant to the decision.

Public Participation and Closure Procedures

Several commenters suggested that the Service be more specific in delineating closure criteria. The Service cannot forecast the complete range of criteria that would be applicable to protect Alaska refuges. Accordingly, while the Service expects the vast majority of closure decisions to be based on delineated factors like public safety and resource protection, the Service does not believe it prudent to specify a binding limited list of criteria.

The Fish and Wildlife Service received many comments arguing that the proposed rule limiting the public hearings requirements to the affected vicinity precluded, in some cases, public participation by urban uses who would also be affected. In response to this comment, the Service has adopted regulatory language that mandates such hearings in other locations, if appropriate.

Several commenters suggested that the Service adopt a temporary closure procedure similar to that proposed by the Park Service. This recommendation has been adopted. The temporary closure procedure allows the Service improved flexibility in responding to management problems. Although temporary closures may extend up to 12 months in appropriate cases, they need not if the problem requiring temporary closure is alleviated in less time.

Many commenters suggested that permanent closures be accompanied with a **Federal Register** notice. This suggestion has been adopted to more fully inform the general public of Service actions.

Many commenters suggested that areas be opened to uses previously prohibited only after prior notice in the **Federal Register.** This suggestion has also been accepted, again to more fully inform the general public of Service actions.

Section-by-Section Analysis

Subpart A—Introduction and General Provisions

Applicability and Scope—Section 36.1

The regulations published today establish interim management rules for the Alaska National Wildlife Refuges. The Alaska refuges are also subject to the general National Wildlife Refuge System regulations (*see* 50 CFR Chapter I, Subchapter C), as supplemented and modified by these rules. Existing special regulations now in force and effect will also apply to applicable Alaska National Wildlife Refuge lands, except where inconsistent with these rules or the provisions of the Alaska Lands Act. These regulations generally apply only to "federally-owned" land within the Alaska National Wildlife Refuges. *See* the discussion of federally-owned land in the Analysis of Comments section above.

Definitions—Section 36.2

This section sets out the definitions of keys terms used in these regulations. The definitions specified in these rules generally follow the language of the Alaska Lands Act where available or adopt generally accepted definitions used in prior regulations promulgated by the Fish and Wildlife Service for fish and wildlife conservation areas. The term "fish and wildlife," for instance, tracks the language of the statute although as noted above the Fish and Wildlife Service recognizes the clearly expressed Congressional intent that this term does not include those animals the Service determines to be exotic or domestic. Other definitions, such as those for "adequate and feasible access" and "subsistence uses", are discussed in connection with the substantive access and subsistence provisions and are not repeated here.

Subpart B—Subsistence Uses

Subpart B of these regulations implements the policies and procedures governing subsistence uses contained in Title III and VIII of the Alaska Lands Act.

The regulations for subsistence are necessary for several reasons. First, they relieve restrictions in the otherwise applicable general National Wildlife Refuge System regulations for uses and activities integral to the subsistence lifestyle. In certain cases, the Alaska Lands Act does not specifically relieve these restrictions; in other cases, the Act allows the uses, but the general refuge regulations appear to prohibit them under threat of criminal penalty. Second, the regulations implement certain critical provisions of the Alaska Lands Act concerning subsistence (e.g., the closure standards and procedures for subsistence uses of fish and wildlife), and extend the approach of certain of these provisions to subjects not specifically mentioned by the Act (e.g., closure standards and procedures for subsistence use of plants).

The subsistence regulations are not comprehensive. They do not provide for implementing certain provisions of Title VIII of the Alaska Lands Act that, in the Service's judgment, do not lend themselves to expeditious promulgation since they have not previously been the subject of notice and comment. Notable

among these statutory provisions are the State regulation opportunity of section 805(d), the Federal monitoring requirement of section 806, the judicial enforcement mechanism of section 807, the subsistence and land use procedure of section 810, and the subsistence research provision of section 812. It should be emphasized that all parties must comply with these statutory provisions as long as they remain in effect.

Purpose and Policy—Section 36.11

Section 36.11(a) provides that, consistent with proper management of fish and wildlife and the purposes for which the Alaska National Wildlife Refuges were established, the purpose of Subpart B of the regulations is to provide the opportunity for local rural residents engaged in a subsistence way of life to do so pursuant to applicable State and Federal law.

Alaska Lands Act, sections 101(c) and 802(l). The Subpart B regulations are designed to accommodate and protect the unique subsistence relationship of certain local rural people in Alaska with their natural environment.

Alaska Native people have been living a subsistence way of life for thousands of years, and certain non-Native rural residents have developed a subsistence way of life in more recent times. Many of these local rural residents have customarily and traditionally taken the renewable resources which are now within the boundaries of refuge areas.

The resources satisfy both the physical needs of these local rural residents for food, shelter, fuel, clothing, tools, and transportation and their societal needs for cultural identity through skills, lore, and traditions. In light of the cultural and societal importance of the subsistence lifestyle in rural Alaska and its dependence on the renewable resources, therefore, Subpart B implements the Congressional directive to continue the opportunity for subsistence uses within Alaska National Wildlife Refuges by local rural residents.

Section 36.11(b)–(c) sets forth basic policies which the Alaska Lands Act adopted to guide the activities of the administering agencies. Alaska Lands Act, sections 802 (1), (2) and 804. First, consistent with sound resource management principles and the conservation of healthy population of fish and wildlife, the utilization of refuge areas is to cause the least adverse impact possible on local rural residents who depend upon subsistence uses of the resources of the public lands in Alaska for their economic and physical well-being and cultural vitality. This statutory policy is implemented throughout the regulations, particularly in the subsistence priority recognized by § 36.11(c), and the limitations on closure, §§ 36.12, 36.15, and 36.16.

Section 36.11(c), establishes the nonwasteful subsistence uses of fish, wildlife, and other renewable resources by local rural residents as the priority consumptive use over any other consumptive uses permitted within refuge areas. The Fish and Wildlife Service anticipates State regulations implementing the subsistence priority.

Section 36.11(d) authorizes the State of Alaska to regulate the taking of fish and wildlife for subsistence uses within Alaska National Wildlife Refuges to the extent such regulation is consistent with applicable Federal law, including but not limited to the Alaska Lands Act.

In addition to establishing the purpose and policies of the Subpart B regulations, § 36.11(e) also establishes the limitations of the purpose and policies. According to § 36.11(a), the subsistence opportunity may only be provided in a manner and degree consistent with the management of fish and wildlife in accordance with recognized scientific principles and with the purposes for which each refuge area was established, designated, or expanded by the Alaska Lands Act. According to § 36.11(b), the utilization of the public lands is to cause the least adverse impact possible on local rural residents, but this policy is limited by the requirements that it be consistent with sound management principles and the conservation of healthy populations of fish and wildlife. Section 36.11(c) establishes the basic limitations of all the provisions of the Subpart B regulations: subsistence uses of fish and wildlife populations must be appropriately regulated so as to assure conservation of healthy populations within Alaska National Wildlife Refuges. Congress provided the following guidelines on the implementation of this concept:

> The Committee intends the phrase "the conservation of healthy populations of fish and wildlife" to mean the maintenance of fish and wildlife resources and their habitats in a condition which assures stable and continuing natural populations and species mix of plants and animals in relation to their ecosystems, including recognition that local rural residents engaged in subsistence uses may be a natural part of that ecosystem; minimizes the likelihood of irreversible or long-term adverse effects upon such populations and species; and ensures maximum practicable diversity of options for the future.
>
> The greater the ignorance of the resource parameters, particularly of the ability and capacity of a population or species to respond to changes in its ecosystem, the greater the safety factor must be. Thus, in order to insure that subsistence uses are compatible with the maintenance of healthy populations of fish and wildlife, it must be recognized that the likelihood of irreversible or long-term adverse effects to a population or species must be proportional to the magnitude of the risks caused by a proposed use of such population or species.
>
> The Committee recognizes that the management policies and legal authorities of the National Park System and the National Wildlife Refuge System may require different interpretations and application of the "healthy population" concept consistent with the management objectives of each system. Accordingly, the Committee recognizes that the policies and legal authorities of the managing agencies will determine the nature and degree of management programs affecting ecological relationships, population dynamics, and the manipulation of the components of the ecosystem. S. Rep. No. 96–413, 96th Cong. 1st Sess., 233 (April 16, 1979).

Subsistence Definitions

Local Rural Resident. Throughout the regulations the Fish and Wildlife Service categorizes those people who may engage in subsistence uses as "local rural residents." This term derives from the term "local residents" in Title III of the Alaska Lands Act and the term "rural Alaska residents" in the definition of "subsistence uses" in Title VIII. Title III authorizes the opportunity for continued subsistence uses by local residents. Alaska Lands Act, sections 302 and 303. The definition of "subsistence uses" refers to "rural Alaska residents" Alaska Lands Act, Section 803. The relationship between this language in Title III and Title VIII was described as follows in the Congressional Record:

> Since the definition of "subsistence uses" in section 803 limit such uses to "rural Alaska residents," a reading of Title VIII and Title III * * * together make it clear that the policy throughout is that only local rural residents are by statute provided the opportunity to engage in subsistence uses in areas of the * * * National Wildlife Refuge System. 126 Cong. Rec. S15129 (daily ed. Dec. 1, 1960).

Subsistence Uses. The definition of "subsistence uses" found in § 36.2 tracks the language of section 803 of the Alaska Lands Act with one modification: Today's definition offers some guidance on the meaning of the term "customary trade," which the statute leaves undefined.

The term "subsistence uses" means the customary and traditional uses by rural Alaska residents of fish, wildlife, and other wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and

selling of handicraft articles from the nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. The definition uses several terms which require further explanation. To begin with, the definition uses the phrase "customary and traditional" to modify the term "uses" in order to emphasize that Native and non-Native subsistence uses "have played a long established and important role in the economy and culture of the community and * * * (that) such uses incorporate beliefs and customs which have been handed down by word of mouth or example from generation to generation." S. Rep. No. 96-413, supra, 269; H. Rep. No. 96-97, 96th Congress, 1st Sess. 280 (1979).

Next, the definition limits subsistence uses to those "by rural Alaska residents." Clearly, this limitation excludes residents of Ketchikan, Juneau, Anchorage, and Fairbanks from engaging in authorized "subsistence uses." *See* S. Rep. No. 96-413, *supra*, 233. Residents of "rural" Alaska—including communities such as Dillingham, Bethel, Nome, Kotzebue, Barrow, and other villages throughout the State (as long as such communities remain rural)—may engage in "subsistence uses." It is important to emphasize, however, that in refuge areas only local "rural residents" are accorded the subsistence priority. Thus, while the statutory definition of "subsistence uses" focuses more broadly on "rural Alaska residents" wherever they may live, the legislative history to Titles III and VIII clearly shows that it is only for the category of rural residents who are also local to the vicinity of a particular wildlife refuge that the subsistence priority is intended to apply. *See* 126 Cong. Rec. S15129 (daily ed., Dec. 1, 1960).

The term "family" is defined to include any person living within a local rural resident's household on a permanent basis as well as those persons living outside the household who are related by blood, marriage, or adoption (legal or equitable). The definition of "family" recognizes extended family patterns common in the subsistence culture of Alaska.

The definition of "subsistence uses" includes the making and selling of handicraft articles from the nonedible byproducts only of fish and wildlife resources taken for personal or family consumption. Accordingly, the definition covers such commercial activities only if the edible portions of the resource have been used for personal or family consumption. The "subsistence uses" definition also includes "barter" for personal or family consumption in recognition that a genuine subsistence lifestyle includes certain foodstuffs and other items which may not be available through a non-cash exchange. Thus, barter of subsistence resources of a limited and noncommercial nature falls within the meaning of "subsistence uses."

Finally, the definition of "customary trade" recognizes that a subsistence lifestyle may also include limited involvement in the cash economy. Trapping of furbearers, for instance, is an integral and longstanding part of the subsistence lifestyle in many regions in Alaska. While some of the furs are utilized for personal or family use, it is recognized that a portion of the furs utilimately become items for sale on the commercial market. The cash remuneration, in turn, helps to provide the basic tools and supplies associated with trapping and the subsistence lifestyle of which trapping is a part. For example, local rural residents may engage in trapping to obtain the cash required for necessary store-bought supplies such as gasoline and ammunition. The allowance of cash interchange related to trappings is intended to provide continuity to the traditional and customary harvest of furbearers by those who engage in subsistence uses within refuge areas. Because the Service may find that other forms of customary trade for subsistence purpose may have occurred, the rules also provide the Refuge Manager the authority to designate these activities in refuge special rules.

It should be recognized, however that the definition of "customary trade" was intended to be narrow:

> "The Committee, does not intend "customary trade" to be construed to permit the establishment of significant commercial enterprise under the guise of "subsistence uses." The Committee expects the Secretary and the State to closely monitor the "customary trade" component of the definition and promulgate regulations consistent with the intent of the subsistence title." S. Rep. No. 96-413, supra, 234.

Access for Subsistence Purposes—Section 36.12

In furtherance of Section 811 of the Alaska Lands Act, this section provides local rural residents engaged in subsistence uses reasonable access to the subsistence resources on which they depend. This section liberalizes the provisions of subpart C on snowmobiles, motorboats, and certain off-road vehicles in the case of local rural residents who are engaged in subsistence hunting, fishing, and gathering activities within the refuge areas. All routes and areas are open to use of these vehicles for subsistence purposes except as specifically restricted or closed. The Refuge Manager will implement such closures or restrictions on the basis of criteria which are more limited than the criteria for closure to general recreation use. Basically, in order to impose a restriction, the Refuge Manager must determine that the use in question is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species or the purposes and values for which the refuge area was established. The Refuge Manager will arrange notice and public participation concerning closure proposals in order to involve those affected to the fullest extent possible in the decision making. It should be noted that the types of access vehicles covered by § 36.12 include "other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses." The regulations define this term to include use of dog teams. The limitations of the quoted phase, if any, will be addressed as appropriate in future rulemaking efforts.

Under the regulations any person operating motorboats, snowmobiles, and other means of surface transportation must comply with applicable State and Federal laws governing such operation and must avoid causing waste or damage to fish, wildlife, terrain, or other values of the refuge area. In addition, consistent with State law, the vehicle operator may not use a motorized vehicle so as to herd, harass, haze, or drive wildlife for hunting or any other purpose.

At all times when not engaged in subsistence uses, local rural residents would be able to use snowmobiles, motorboats, and other means of surface transportation in accordance with the appropriate Subpart C regulations.

For example, local rural residents engaged in recreational uses of snowmobiles, motorboats, and other means of surface transportation would comply with the provisions of §§ 36.21 and 36.22 and local rural residents seeking otherwise closed access to inholdings or temporary access would comply with the provisions of §§ 36.23 and 36.24 respectively.

Subsistence Fishing—Section 36.13

This section authorizes local rural residents to engage in fishing in Alaska National Wildlife Refuges in compliance with applicable State and Federal law. Section 36.16, explained below, governs closures to fishing for subsistence purposes.

Subsistence Hunting and Trapping—Section 36.14

This section authorizes local rural residents to hunt or trap wildlife for subsistence uses in compliance with applicable State and Federal law. Closure of areas to subsistence hunting and trapping is treated in § 36.16.

Subsistence use of Timber and Plant Material—Section 36.15

This section addresses subsistence uses of timber and plant material. Section 36.15(a) authorizes subject to the terms of a permit the noncommerical cutting of live standing timber of diameter greater than 3 inches by local rural residents for appropriate subsistence uses. The cutting of smaller timber, as well as the noncommercial gathering of fruits, berries, mushrooms and other plant material by local rural residents for subsistence uses, is allowed unless otherwise restricted by the Refuge Manager.

Section 36.15(b) sets forth the standards and procedures for closing a refuge area to the subsistence uses of a particular plant population. Although not expressly required by the Alaska Lands Act, today's regulations apply similar closure provisions for subsistence uses of plants as the Act requires for subsistence uses of fish and wildlife. As discussed below in the latter context, the closure standards are narrow, and the closure procedures involve significant public participation in order to protect the affected local rural residents who depend on the resources.

Closure to Subsistence Use of Fish and Wildlife—Section 36.16

Pursuant to Section 816 of the Alaska Lands Act and this section, the Refuge Manager has the authority to close or restrict any part or all of an Alaska National Wildlife Refuge to subsistence uses of a particular fish or wildlife population only temporarily and only if necessary "for reasons of public safety, administration, or to assure the continued viability of such population." To implement Congress' intent, section 36.16 provides protection standards, time limitations, and notice requirements for closures to subsistence taking of fish and wildlife.

With respect to the standards for closure, the Act lists only three: Public safety, administration, and for assurance of the continued viability of a fish and wildlife population. No closure for purposes of administration, moreover, may be made prior to notice and hearing in the vicinity of the closure. The public safety standard clearly allows the Refuge Manager to act in situations which threaten public health and welfare. For example, the Refuge Manager may prohibit subsistence hunting and trapping for reasons of public safety in specified areas surrounding a public campground, roadway or hiking trail. The "fish or wildlife viability" standard allows the Refuge Manager to act for purposes of maintaining resource populations upon which local rural residents rely at levels adequately above the threatened level. As Congress stated, "it is not the intent that actual depletion of a population or an emergency exist before a closure under this section may be justified." S. Rep. No. 96-413, *supra*, 278; H. Rep. No. 96-97, *supra*, 289.

Moreover, as stated in Section 815 of the Alaska Lands Act and § 36.11(d) of these regulations and explained previously, the subsistence provisions are not to be construed as permitting a level of subsistence use of fish and wildlife within Alaska National Wildlife Refuges determined to be inconsistent with the conservation of healthy populations of fish and wildlife. The "administration" standard is potentially the broadest of the three closure standards, though "recognition of the importance of subsistence activities to most (local) rural residents requires that this authority be utilized narrowly and with consistent restraint." S. Rep. No. 96-413, *supra*, 278; H. Rep. No. 96-97, *supra*, 289. Guided by this intent, the Refuge Manager can invoke the administration standard to protect the purposes and values of the refuge areas and to otherwise manage the refuge prudently. The limitation of Section 815 of the Act and § 36.11(d) of the regulations would also be relevant to this closure standard.

Closures shall last only so long as reasonably necessary to achieve the purposes of the closures. In the case of closing an area around a hiking trail for reasons of public safety, for example, the closure "should remain in effect only so long as reasonably necessary to provide for the public safety during normal periods of consistent public use, and only apply to the minimum portion of the public lands reasonably necessary to achieve this purpose." S. Rep. No. 96-413, *supra*, 277-78; H. Rep. No. 96-97, *supra*, 289. Thus, closures may be seasonal in nature, for example, if warranted by the situation.

In the normal case, a closure would be preceded by consultation with the State and adequate notice and informal public hearing in the vicinity of the closure. In an emergency situation, the Refuge Manager would immediately close the area for a period not to exceed sixty days. The Refuge Manager may extend an emergency closure only if he establishes, after notice and in formal public hearings in the vicinity, that the extension is justified under the applicable closure standards.

Finally, § 36.16(c) is designed to inform as many local rural residents as possible about any closures which may affect them.

Subpart C—Use of Motorized Vehicles and Access

Sections 36.21-36.24 of these regulations implement sections 1110 and 1111 of the Alaska Lands Act concerning access by the public across Alaska National Wildlife Refuges for nonsubsistence purposes. These proposed regulations generally relax restrictions on access that are applicable to National Wildlife Refuge units outside of Alaska, consistent with the requirements of the Alaska Lands Act. These sections are designed to and are presented in an order which will funnel the vast majority of access needs away from a system of individual access permits. Section 36.21 opens all refuges to access by snowmobile, aircraft, motorboat, and nonmotorized surface transportation for most purposes. (Additional access for subsistence uses is set forth in § 36.12). Section 36.22 provides a mechanism for establishing common corridors and areas for off-road vehicle use. In the less common situation where §§ 36.11 and 36.22 do not accommodate a refuge "inholder's" need for access, § 36.23 provides for individual permits that insure adequate and feasible access while minimizing damage to refuge resources. Finally, where §§ 36.21-36.23 do not otherwise provide temporary access, § 36.24 creates another means for obtaining desired access.

Snowmachines, Motorboats, Aircraft, and Nonmotorized Surface Transportation—Section 36.21

This section treats the use of snowmachines, motorboats, aircraft and nonmotorized surface transportation for other than subsistence purposes. Motorboat, fixed wing aircraft and nonmotorized surface transportation use for all purposes are authorized on

Alaska Refuges. Snowmachine use on Alaska refuges is open to the maximum extent possible consistent with existing law. *See* the analysis of comments discussion above. Helicopter use is also authorized subject to the terms and conditions of a special use permit issued by the Refuge Manager.

This section also sets out procedures for removal of aircraft downed after December 2, 1980 on Alaska National Wildlife Refuges. The regulations require that downed aircraft must be removed pursuant to the terms of a special use permit unless the Refuge Manager determines, on a case-by-case basis, that the removal of the aircraft would constitute an unacceptable risk to human life, would result in extensive resource damage, or would otherwise be impracticable or impossible. In evaluating this final criterion, the Service would not require removal of a downed aircraft in any situations when the removal of the aircraft would cause such a severe and significant hardship to the owner as to be economically prohibitive.

Off-Road Vehicles—Section 36.22

This section authorizes the use of off-road vehicles on roads and routes and areas designated by the Refuge Manager, and establishes a procedure for further designation of such routes and areas. Today's rules open refuges to ORV use in a manner designed to authorize such access to the extent possible consistent with refuge values.

Access to Inholdings—Section 36.23

This section provides further procedures to insure "adequate and feasible access" to inholdings. As noted above in the Analysis of Comments, this term is defined to make clear that the inholder determines the desired land use or development, and the Service provides reasonable access to meet the desired land use. In addition, instead of defining the term circularly in terms of access, the § 36.2 definition provides that only "personal and vehicular travel" (*e.g.*, routes, trails, and landing strips, but not transmission lines and pipelines) fits within the statutory access guarantee, in accordance with the legislative history of section 1110(b) appearing in *S. Rep. No. 96-413*, 96th Cong. 1st Sess., 246 (Nov. 14, 1979) and in *H. Rep. No. 96-97*, Part I, 96th Cong., 1st Sess., 239-240 (April 18, 1979). Finally, the definition makes it clear that the access permitted must be economically practicable, but not necessarily the least costly access alternative.

Consistent with the statutory obligation (section 1110(b) of the Alaska Lands Act) to provide adequate and feasible access, § 36.23(b) of the regulations strives to give the applicant his preferred access, unless there would be significant resource conflicts and alternative adequate and feasible access exists. This regulatory provision also attempts to fulfill the congressional directive in a manner calculated to ease public reporting burdens while insuring the conservation of refuge values.

Section 36.23(c) is an interpretive rule designed to clarify the relationship of sections 1101–1107 and 1110 of the Alaska Lands Act. *See* the discussion in the Analysis of Comments.

Temporary Access—Section 36.24

This section implements section 1111 of the Alaska Lands Act by establishing a permit mechanism for obtaining temporary access across an Alaska National Wildlife Refuge for purposes of survey, geophysical, exploratory, or other temporary uses of non-Federal lands located outside refuge boundaries. Section 36.24 requires an access permit only where §§ 36.21 and 36.22 do not provide the desired access, and where § 36.23 is not applicable (*e.g.*, if a refuge "inholder" or a person effectively surrounded by Federal lands requires temporary access across a refuge, section 1110(b) of the Alaska Lands Act and § 36.23 of these regulations grant greater access privileges).

Subpart D—Other Refuge Uses

Recreational Activities—Section 36.31

This section authorizes public recreational activities such as boating, camping, hiking, and picnicking within an Alaska National Wildlife Refuge as long as these activities are conducted in a manner compatible with the purpose of the particular refuge. In reaching this regulatory decision, the Service has reviewed the extensive data accumulated through studies, environmental analyses and hearings preceding enactment of the Alaska Lands Act, as well as other information arising from the Federal Land Policy and Management Act, sections 204(c) and 204(e) withdrawals studies. On the basis of this extensive record, the historic use of these areas, and its professional expertise, the Service presently believes that all such activities are compatible with the purpose for which the refuges were established. The Refuge Manager retains authority to close or restrict these uses of refuge lands when he determines they are incompatible with refuge purposes.

Taking of Fish and Wildlife—Section 36.32

This section authorizes the taking of fish and wildlife on Alaska National Wildlife Refuges in accordance with applicable State and Federal law. (Additional provisions on subsistence hunting, trapping, and fishing are provided in §§ 36.13 and 36.14). A permit for these activities need not be obtained from the Refuge Manager, except that the presently existing requirement to obtain a permit before trapping on the Kenai, Izembek and Kodiak Refuges and the Aleutian Island's unit of Alaska Maritime Refuge is retained. The taking of fish and wildlife may be prohibited or restricted only in conjunction with notice and hearing pursuant to the requirements of § 36.42.

This section also treats commercial fishing in a manner that tracks the language of section 304 of the Alaska Lands Act. As expressly recognized by section 304, the Secretary retains the discretion to regulate commercial fishing activities in appropriate cases.

Cabins and other Structures—Section 36.33

This section provides procedures and guidance for those occupying and using existing cabins and those wishing to construct new cabins within Alaska National Wildlife Refuges. The regulations implement section 1303 of the Alaska Lands Act by addressing construction of new cabins, use of existing cabins by occupants who may not have a legal interest in them, and use of existing cabins by those with valid existing rights in cabins as of December 2, 1980.

Under the Alaska Lands Act new cabins are authorized in Alaska National Wildlife Refuges only pursuant to a non-transferable, five-year special use permit issued by the Refuge Manager. Section 36.33, tracking the language of the statute, authorizes issuance of such a permit only upon a determination that (1) the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the refuge was established and (2) that the use of the cabin is either directly related to the administration of the refuge or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the refuge where the permit applicant has no reasonable alternative site for constructing a cabin outside the refuge. As prescribed by the Act, no special use permit may be issued to authorize the

construction of a cabin for private recreational use.

Subsection (b)(1) addresses the use of existing cabins by occupants who may not have a legal right to the cabin. The traditional and customary use of these existing cabins within an Alaska National Wildlife Refuge is authorized in accordance with a five-year, special use permit issued upon a determination by the Refuge Manager that the traditional and customary uses are compatible with the purposes of the refuge. As with new cabins, special use permits may not be issued to authorize the use of an existing cabin for private recreational uses.

Subsection (b)(2) addresses use of existing cabins by occupants who have a valid permit or lease in effect on December 2, 1980 for those structures. Such an occupant is entitled, as a matter of right, to continuation of such permit or lease unless the Refuge Manager determines, following notice and an opportunity for response, that such a continuation would directly threaten or significantly impair the purposes for which the refuge was established.

All permits authorized under this section must be renewed every five years until the death of the last immediate member of the claimant residing in the cabin. Permits need not be renewed, however, if the Refuge Manager determines, after a formal adjudicatory hearing, that the use of the cabin under the permit is causing or may cause significant detriment to the principal purposes for which the refuge was established.

Firearms—Section 36.34

This section authorizes, in accordance with State and Federal law, the possession, use and transporting of firearms on Alaska National Wildlife Refuges for purposes of hunting or personal protection. Such uses may be prohibited or restricted only in accordance with the public participation provision of § 36.42.

Unattended Property—Section 36.35

The general National Wildlife Refuge System regulations authorize the leaving of unattended personal property on a refuge for only short periods of time. Recognizing unique Alaska circumstances, such as the need to allow for trapping caches, this section generally extends the period to 12 months. In order to assure protection of refuge resources, the Refuge Manager may (1) designate areas where personal property may not be left unattended for any time period, (2) establish limits on the amount and type of personal property that may be left unattended, (3) prescribe the manner in which personal property may be left unattended, and (4) establish limits on the length of time personal property may be left unattended.

Sled Dogs and House Pets—Section 36.36

This section relaxes the general trespass provisions of the general National Wildlife Refuge system regulations (50 CFR 26.11) for household pets and sled or pack dogs under the direct control of their owners or handlers.

Subpart E—Permits and Public Participation and Closure Procedures

Permits—Section 36.41

This section provides consolidated procedures regarding the issuance and denial of permits required by the general National Wildlife Refuge System regulations and these regulations. The procedures specify to whom an application for a permit must be submitted, and direct the Refuge Manager to approve or deny an application, or request additional information, within 45 days of receipt of the request unless good cause is shown. This section also adopts an appeal procedure for applicants aggrieved by a decision of the Refuge Manager. Aggrieved parties must appeal within 180 days of the Refuge Manager's decision. Appellants are also guaranteed the opportunity for an informal meeting with the Regional Director to present their cases.

Public Participation and Closure Procedures—Section 36.42

Section 36.42 authorizes the Refuge Manager to close an area or restrict an activity on an emergency, temporary or permanent basis. A determination to close an area or restrict an activity will be based on factors such as public health and safety, resource protection, and subsistence uses. No closures are provided for by this regulation. The section provides for notice and hearing for temporary and permanent closure, and also includes a provision for notice and informal hearing prior to all closure for snowmobile, aircraft or motorboat use, consistent with section 1110(b) of the Act. This rule establishes time limits for emergency closures (30 days) and temporary closures (12 months) which cannot be extended. This section also provides that areas may be opened to a public activity or use otherwise prohibited only after notice in the **Federal Register** and providing an opportunity for an informal public hearing.

Compliance with Other Laws

The Service has prepared an Environmental Assessment on this rulemaking and has made a Finding of No Significant Impact pursuant to regulations implementing the National Environmental Policy Act (42 U.S.C. 4332). Copies of the Environmental Assessment and the finding of No Significant Impact are available for public review in the Service's Alaska Regional Office.

The Service has also determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193, Feb. 19, 1981) and that the rulemaking would not have a "significant economic effect on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act (Pub. L. 96-354) and 43 CFR Part 14 (45 FR 85376, Dec. 24, 1980). Finally, the Service has received approval from the Office of Management and Budget for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (Pub. L. 96-511).

Drafting Information

The primary authors of these regulations are Lou Swenson and Owen Vivion, Fish and Wildlife Service Alaska Regional Office and Ronald Fowler, Division of Refuge Management, Washington, D.C.

Dated: May 27, 1981.

G. Ray Arnett,

Assistant Secretary, Fish and Wildlife and Parks.

In consideration of the foregoing, Title 50 of the Code of Federal Regulations is amended by establishment of a new Part 36 in Chapter I, Subchapter C, as follows:

PART 36—ALASKA NATIONAL WILDLIFE REFUGES

Subpart A—Introduction and General Provisions

Sec.

36.1 Applicability and scope.
36.2 Definitions.
36.3 Information collection.

Subpart B—Subsistence Uses

36.11 Purpose and policy.
36.12 Use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.
36.13 Subsistence fishing.
36.14 Subsistence hunting and trapping.
36.15 Subsistence uses of timber and plant material.
36.16 Closure to subsistence uses.

Subpart C—Use of Motorized Vehicles and Access

Sec.
36.21 Use of snowmachines, motorboats, aircraft, and nonmotorized surface transportation.
36.22 Use of off-road vehicles.
36.23 Access to inholdings.
36.24 Temporary access.

Subpart D—Other Refuge Uses

36.31 Recreational activities.
36.32 Taking of fish and wildlife.
36.33 Cabins and other structures.
36.34 Firearms.
36.35 Unattended property.
36.36 Sled dogs and household pets.

Subpart E—Permits and Public Participation and Closure Procedures

36.41 Permits.
36.42 Public participation and closure procedures.
Table I—Summary Listing the National Wildlife Refuges in Alaska as Established by the Alaska Lands Act

Authority: The Alaska National Interest Lands Conservation Act, Pub. L. No. 96-487 (December 2, 1980); the National Wildlife Refuge System Administration Act, as amended, 16 U.S.C. 668dd *et seq.*; Fish and Wildlife Act of 1956, 16 U.S.C. 742(a) *et seq.*; Refuge Recreation Act, 16 U.S.C. 460k *et seq.*; Paperwork Reduction Act of 1980, 94 Stat. 2812, Pub. L. 96-511.

Subpart A—Introduction and General Provisions

§ 36.1 Applicability and scope.

(a) The regulations contained in this part are prescribed for the proper use and management of all Alaska National Wildlife Refuges and supplement the general National Wildlife Refuge System regulations found in Title 50, Code of Federal Regulations, Chapter I, Subchapter C. The general National Wildlife Refuge System regulations are automatically applicable in their entirety to the Alaska National Wildlife Refuges except as supplemented or modified by these regulations or amended by ANILCA.

(b) The regulations contained in this part are applicable only on federally owned lands within the boundaries of any Alaska National Wildlife Refuge. For purposes of this part "federally owned lands" means land interests held or retained by the United States, but does not include those land interests: (1) Tentatively approved, legislatively conveyed, or patented to the State of Alaska, of (2) interim conveyed or patented to a Native Corporation or person.

§ 36.2 Definitions.

The following definitions shall apply to the regulations contained in this part.

(a) "Adequate and feasible access" means a reasonable method and route of pedestrian or vehicular transportation which is economically practicable for achieving the use or development desired by the applicant on his/her non-federal land or occupancy interest, but does not necessarily mean the least costly alternative.

(b) "Adequate snow cover" means snow of sufficient depth to protect the underlying vegetation and soil.

(c) "ANILCA" means the Alaska National Interest Lands Conservation Act, 94 Stat 237, Pub. L. 96-487 (December 2, 1980).

(d) "Aircraft" means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including but not limited to, airplanes, helicopters and gliders.

(e) "Alaska National Wildlife Refuges" means all lands, waters and interests therein administered by the United States Fish and Wildlife Service within the following National Wildlife Refuges in Alaska: Alaska Maritime, Arctic, Alaska Peninsula, Becharof, Innoko, Kanuti, Kenai, Kodiak, Koyukuk, Nowitna, Selawik, Tetlin, Izembek, Togiak, Yukon Delta and Yukon Flats.

(f) "Downed aircraft" means an aircraft that as a result of mechanical failure or accident cannot take off.

(g) "Fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, non-migratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or dead body or part thereof.

(h) "Off-road vehicle" means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland, or other natural terrain, except snowmobiles as defined in this section.

(i) "Person" means any individual, firm, corporation, society, association, partnership, or other private or public body.

(j) "Public lands" means lands situated in Alaska which are federally owned lands, except:

(1) Land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act (72 Stat. 339) and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) Land selections of a Native Corporation made under the Alaska Native Claims Settlement Act (85 Stat. 688) which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) Lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(k) "Refuge Manager" means any Fish and Wildlife Service official in charge of an Alaska National Wildlife Refuge, the Alaska Regional Director of the Fish and Wildlife Service, or an authorized representative of either.

(l) "Snowmachine" or "snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 pounds (450 kg), driven by track or tracks in contact with the snow and steered by a ski or skis in contact with the snow.

(m) "Subsistence uses" means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and, for customary trade. For purpose of this paragraph, the term—

(1) "Family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "Barter" means the exchange of fish or wildlife or their parts taken for subsistence uses—

(i) For other fish or game of their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) "Customary trade" shall be limited to the exchange of furs for cash, and such other activities, if any, as may be designated in special rules for Alaska National Wildlife Refuges.

(n) "Take" or "taking", as used with respect to fish and wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm or attempt to engage in any such conduct.

(o) "Temporary" means a continuous period of time not to exceed 12 months, except as specifically provided otherwise.

§ 36.3 Information collection.

The information collection requirements contained in §§ 36.15, 36.21, 36.22, 36.23, 36.24, 36.33 and 36.41 of these regulations have been approved by the Office of Management and

Budget under 44 U.S.C. 3507 and assigned clearance number 1018–0035. The information is being collected to solicit information necessary for the Refuge Manager to issue permits and other benefits. The information will be used to grant statutory or administrative benefits. In all sections except § 36.21(f), the obligation to respond is required to obtain a benefit. In § 36.21(f), the obligation to respond is mandatory.

Subpart B—Subsistence uses

§ 36.11 Purpose and policy.

(a) Consistent with the management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each Alaska National Wildlife refuge was established, designated, or expanded by ANILCA, the purpose of this subpart is to provide the opportunity for local rural residents engaged in a subsistence way of life to do so pursuant to applicable State and Federal law.

(b) Consistent with sound management principles and the conservation of healthy populations of fish and wildlife, the utilization of Alaska National Wildlife Refuges is to cause the least adverse impact possible on local rural residents who depend upon subsistence uses of the resources of the public lands in Alaska.

(c) Nonwasteful subsistence uses of fish, wildlife and other renewable resources by local rural residents shall be the priority consumptive uses of such resources over any other consumptive uses permitted within Alaska National Wildlife Refuge areas.

(d) The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within Alaska National Wildlife Refuges to the extent such regulation is consistent with applicable Federal Law, including but not limited to ANILCA.

(e) Nothing in this subpart shall be construed as permitting the level of subsistence uses of fish and wildlife within Alaska National Wildlife Refuges to be inconsistent with the conservation of healthy populations of fish and wildlife.

§ 36.12 Use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

(a) Notwithstanding any other provision of Subchapter C of Title 50, Code of Federal Regulations, the use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within Alaska National Wildlife Refuges except at those times and in those areas restricted or closed by the Refuge Manager.

(b) The Refuge Manager may restrict or close a route or area to the use of snowmobiles, motorboats, dog teams or other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses if the Refuge Manager determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or other purposes and values for which the refuge was established.

(c) No restrictions or closures shall be imposed without notice and a public hearing in the affected vicinity and other locations as appropriate. In the case of emergency situations, restrictions or closures shall not exceed sixty (60) days and shall not be extended unless the Refuge Manager establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such extension is justified according to the factors set forth in paragraph (b) of this section. Notice of the proposed or emergency restrictions or closures and the reasons therefor shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions and closures shall be designated on a map which shall be available for public inspection at the office of the Refuge Manager of the affected refuge and the post office or postal authority of every affected community within or near the refuge area, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(d) Snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated (1) in compliance with applicable State and Federal law, (2) in such a manner as to prevent waste or damage to the refuge, and (3) in such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

(e) At all times when not engaged in subsistence uses, local rural residents may use snowmobiles, motorboats, dog teams and other means of surface transportation in accordance with Subpart C of this part.

§ 36.13 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in compliance with applicable State and Federal law. To the extent consistent with the provisions of this part and other Federal law, applicable State laws and regulations governing the taking of fish which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 36.14 Subsistence hunting and trapping.

Local rural residents may hunt and trap wildlife for subsistence uses in Alaska National Wildlife Refuges in compliance with applicable State and Federal laws. To the extent consistent with the provisions of this part and other Federal law, applicable State laws and regulations governing the taking of wildlife which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 36.15 Subsistence uses of timber and plant material.

(a) Notwithstanding any other provision of this part, the noncommercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in Alaska National Wildlife Refuges as follows:

(1) For live standing timber of diameter greater than three inches at ground height, the Refuge Manager may permit cutting in accordance with the specifications of a permit if such cutting is determined to be compatible with the purposes for which the refuge was established;

(2) For live standing timber of diameter less than three inches at ground height, cutting is permitted unless restricted by the Refuge Manager.

(b) The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit.

(c)(1) Notwithstanding any other provision of this part, the Refuge Manager, after notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of an Alaska National Wildlife Refuge to subsistence uses of a particular plant population only if necessary for reasons of public safety, administration, or to assure the continued viability of such

population. For purposes of this section, the term "temporary" shall mean only as long as reasonably necessary to achieve the purpose of the closure.

(2) If the Refuge Manager determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular plant population, the Refuge Manager may immediately close all or any portion of an Alaska National Wildlife Refuge to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Refuge Manager establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(3) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and reasons therefor also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Refuge Manager of the affected refuge and the post office or postal authority of every affected community within or near the refuge, or by the posting of signs in the vicinity of the restrictions, or both.

§ 36.16 Closure to subsistence uses of fish and wildlife.

(a) Notwithstanding any other provision of this part, the Refuge Manager, after consultation with the State and adequate notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of an Alaska National Wildlife Refuge to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For the purposes of this section, the term "temporarily" shall means only so long as reasonably necessary to achieve the purpose of the closure.

(b) If the Refuge Manager determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, he may immediately close all or any portion of a refuge to the subsistence uses of such population. Such emergency closure shall be effective when made, shall not exceed sixty (60) days, and may not subsequently be extended unless the Refuge Manager establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(c) Notice of administrative actions taken pursuant to this section and the reasons justifying such actions shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and justifying reasons shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Refuge Manager of the affected refuge area and the post office or postal authority of every affected community within or near the refuge area, or by the posting of signs in the vicinity of the closures, or both.

Subpart C—Use of Motorized Vehicles and Access

§ 36.21 Use of snowmachines, motorboats, aircraft, and non-motorized surface transportation.

(a) The use of snowmachines (during periods of adequate snow cover or frozen river conditions) for traditional activities (where such activities are permitted by ANILCA or other law) and for travel to and from villages and homesites, is authorized within Alaska National Wildlife Refuges, except where such use is prohibited or otherwise restricted by the Refuge Manager in accordance with the provisions of § 36.42. Nothing in this section affects the use of snowmobiles by local rural residents engaged in subsistence uses as authorized by § 36.12.

(b) The use of motorboats, fixed-wing aircraft, and non-motorized surface transportation methods such as domestic dogs, horses and other pack or saddle animals is authorized in Alaska National Wildlife Refuges except where such use is prohibited or otherwise restricted by the Refuge Manager in accordance with the provisions of § 36.42. Nothing in this section affects the use by local rural residents engaged in subsistence uses of those modes of transportation authorized by § 36.12.

(c) The use of helicoptors in Alaska National Wildlife Refuges, other than at landing areas designated in special regulations or pursuant to the terms and conditions of a permit issued by the Refuge Manager, is prohibited.

(d) In imposing any prohibitions or restrictions on fixed-wing aircraft use the Refuge Manager shall: (1) Comply with the procedures set forth in § 36.42; (2) publish notice of prohibitions or restrictions as "Notices to Airmen" issued by the Department of Transportation; and (3) publish permanent prohibitions or restrictions as a regulatory notice in the United States Government Flight Information Service "Supplement Alaska".

(e) The operation of aircraft, at altitudes and in flight paths resulting in the herding, harassment, hazing, or driving of wildlife is prohibited.

(f) Except as provided in paragraph (g) of this section, the owners of any aircraft downed after December 2, 1980, shall remove the aircraft and all component parts thereof in accordance with procedures established by the Refuge Manager. In establishing a removal procedure, the Refuge Manager is authorized to: (1) Establish a reasonable date by which aircraft removal operations must be complete; and (2) determine times and means of access to and from the downed aircraft.

(g) The Refuge Manager may waive the requirements of § 36.21(f) when it is determined that: (1) The removal of downed aircraft would constitute an unacceptable risk to human life; or (2) the removal of a downed aircraft would result in extensive resource damage; or (3) the removal of a downed aircraft is otherwise impracticable or impossible.

(h) Salvaging, removing, possessing or attemping to salvage, remove or possess any downed aircraft or component parts thereof is prohibited, except in accordance with a removal procedure established under paragraph (f) of this section; *Provided, however,* That the owner or an authorized representative thereof may remove valuable component parts from a downed aircraft at the time of rescue without a permit.

§ 36.22 Use of off-road vehicles.

(a) The use of off-road vehicles in locations other than established roads and parking areas is prohibited, except on routes or in areas designated by the Refuge Manager or pursuant to a valid permit as prescribed in paragraph (b) or in §§ 36.23 and 36.24. Such designations shall be made in accordance with the procedures of this section. Nothing in this section affects the use of off-road vehicles by local rural residents engaged in subsistence uses as authorized by § 36.12.

(1) The Refuge Manager's determination of whether to designate a

route or area for off-road vehicle use shall be governed by Executive Order 11644, as amended.

(2) Route or area designations shall be published in the **Federal Register.**

(3) Notice of routes or areas on which off-road travel is permitted shall be in accordance with the provisions of § 36.42(d).

(4) The closure or restrictions on use of designated routes or areas to off-road vehicles use shall be in accordance with the provisions of § 36.42.

(b) The Refuge Manager is authorized to issue permits for the use of off-road vehicles in existing off-road vehicle trails located in refuge areas (other than areas designated as part of the National Wilderness Preservation System) upon a finding that such off-road vehicles use would be compatible with refuge purposes and values. The Refuge Manager shall include in any permit such stipulations and conditions as are necessary for the protection of refuge resources and values.

§ 36.23 Access to inholdings.

(a) *Purpose.* A permit for access to inholdings pursuant to this section is required only where adequate and feasible access is not affirmatively provided without a permit under §§ 36.21 and 36.22 of these regulations. Thus, it is the purpose of this section to ensure adequate and feasible access across refuge areas for any person who has a valid property or occupancy interest in lands within or effectively surrounded by a refuge area or other lands listed in section 1110(b) of ANILCA.

(b) *Application and administration.* (1) Applications for a permit designating methods and routes of access across any Alaska National Wildlife Refuge not affirmatively provided for in this part shall be submitted to the Refuge Manager having jurisdiction over the affected refuge area as specified under § 36.41.

(2) Except as provided in pararaph (c) of this section, the access permit application shall contain the name and address of the applicant, documentation of the relevant property or occupancy interest held by the applicant (including for 1872 Mining Law claimants a copy of the location notice and recordations required under the 1872 Mining Law and 43 U.S.C. 1744), a map or physical description of the relevant property or occupancy interest sufficiently clear to locate the interest on the ground, a map or physical description of the desired route of access, a description of the desired method of access, and any other information necessary to determine the adequacy and feasibility of the route or method of access and its impact on the natural and other values of the refuge area.

(3) The Refuge Manager shall specify in a nontransferable permit adequate and feasible routes and methods of access across refuge lands for any person who meets the criteria of paragraph (a) of this section. The Refuge Manager shall designate the routes and methods desired by the applicant unless it is determined that:

(i) The route or method of access would cause significant adverse impacts on natural or other values of the refuge, and adequate and feasible access otherwise exists; or

(ii) The route or method of access would jeopardize public health and safety, and adequate and feasible access otherwise exists.

(4) If the Refuge Manager makes one of the findings described in paragraph (b)(3) of this section, he shall specify such other alternate methods and routes of access as will provide the applicant adequate and feasible access, while minimizing damage to natural and other values of the refuge.

(5) Any person holding an access permit shall notify the refuge manager of any significant change in the method or level of access from that occurring at the time of issuance. In such cases, the Refuge Manager may modify the terms and conditions of the permit, provided that the modified permit also assures adequate and feasible access under the standards of paragraph (b)(3) of this section.

(6) Routes and methods of access permitted pursuant to this section shall be available for use by guests and invitees of the permittee.

(c) *Access requiring permanent improvements.* (1) Application form and procedure. Any application for access under this section which proposes the construction or modification of an improved road (*e.g.* construction or modification of a permanent, year-round nature and which involves substantial alteration of the terrain or vegetation, such as grading, gravelling of surfaces, concrete bridges, or other such construction or modification), or any other permanent improvement on refuge lands qualifying as a "transportation or utility system" under section 1102 of ANILCA, shall be submitted on the consolidated application form specified in section 1194(b) of ANILCA and processed in accordance with the procedures of Title XI of ANILCA.

(2) Decisionmaking standard:

(i) If a permanent improvement is required for adequate and feasible access under this section (*e.g.* improved right of way or landing strip), the permit granting standards of paragraph (b) of this section shall apply.

(ii) If the permanent improvement is not required as part of the applicant's right to adequate and feasible access to an inholding (*e.g.* pipeline, transmission line the permit granting standards of sections 1104–1107 of ANILCA shall apply.

§ 36.24 Temporary access.

(a) *Applicability.* This section is applicable to State and private landowners who desire temporary access across an Alaska National Wildlife Refuge for the purposes of survey, geophysical, exploratory and other temporary uses of nonfederal lands, and where such temporary access is not affirmatively provided for an §§ 36.21–36.23. State and private landowners meeting the criteria of § 36.23(a) are directed to utilize the procedures of § 36.23 to obtain temporary access.

(b) *Application.* A landowner requiring temporary access across a refuge area for mineral survey, geophysical, exploratory or similar temporary activities shall apply to the Refuge Manager for an access permit and shall provide the relevant information described in § 36.23(b)(2) concerning the proposed access.

(c) *Permit Standards, Stipulations and Conditions.* The Refuge Manager shall grant the desired temporary access whenever he determines that such access will not result in permanent harm to refuge area resources. The Refuge Manager shall include in any permit granted such stipulations and conditions on temporary access as are necessary to ensure that the access granted would not be inconsistent with the purpose for which the refuge was established and to ensure that no permanent harm will result in refuge resources.

(d) *Definition.* For the purposes of this section, "temporary access" shall mean limited, short-term, *(i.e.* up to one year from issuance of the permit) access, which does not require permanent facilities for access to undeveloped State or private lands.

Subpart D—Other Refuge Uses

§ 36.31 Recreational activities.

(a) Public recreational activities within the Alaska National Wildlife Refuges are authorized as long as such activities are conducted in a manner compatible with the purposes for which the areas were established. Such recreational activities include, but are not limited to, sightseeing, nature observation and photography, sport

hunting, sport fishing, boating, camping, hiking, picnicking and other related activities. Any existing special regulations now in force and effect shall continue to apply to the applicable refuge lands in Alaska National Wildlife Refuges.

(b) Surface collection, by hand (including handheld gold pans) and for personal recreational use only, of rocks and minerals is authorized: *Provided however,* That (1) collection of silver, platinum, gemstones and fossils is prohibited, and (2) collection methods which may result in disturbance of ground surface, such as the use of shovels, pickaxes, sluice boxes and dredges, are prohibited. The recreation activities specified in paragraphs (a) and (b) of this section may be prohibited or otherwise restricted in accordance with the provisions of § 36.42.

§ 36.32 Taking of fish and wildlife.

(a) The taking of fish and wildlife for sport hunting, trapping and sport fishing is authorized in accordance with applicable State and Federal law and such laws are hereby adopted and made a part of these regulations: *Provided however,* That the Refuge Manager, pursuant to § 36.42, may designate areas where, and establish periods when, no taking of a particular population of fish or wildlife shall be permitted.

(b) The exercise of valid commercial fishing rights or privileges obtained pursuant to existing law, including any use of refuge areas for campsites, cabins, motorized vehicles and aircraft landing directly incident to the exercise of such rights or privileges, is authorized: *Provided, however,* That the Refuge Manager may restrict or prohibit the exercise of these rights or privileges or uses of federally owned lands directly incident to such exercise if he determines, after conducting a public hearing in the affected locality, that they are inconsistent with the purposes of the refuge and that they constitute a significant expansion of commercial fishing activities within such refuge beyond the level of such activities in 1979.

(c) The following provisions shall apply to any person while engaged in the taking of fish and wildlife within an Alaska National Wildlife Refuge:

(1) Trapping and Sport Hunting

(i) Each person shall secure and possess all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law;

(ii) Each person shall comply with the applicable provisions of Federal law;

(iii) In addition to the requirements of paragraphs (a) and (b) of this section, each person shall continue to secure a trapping permit from the appropriate Refuge Manager prior to trapping on the Kenai, Izembek and Kodiak Refuges and the Aleutian Islands Unit of the Alaska Maritime Refuge.

(2) Sport and Commercial Fishing

(i) Each person shall secure and possess all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law;

(ii) Each person shall comply with the applicable provisions of Federal law.

(d) Nothing in this section shall apply to the taking of fish and wildlife for subsistence uses.

(e) Nothing in these rules shall be interpreted as waiving the requirements of other fish and wildlife conservation statutes such as the Airborne Hunting Act or those provisions of Subchapter C of Title 50, Code of Federal Regulations, regarding the taking of depredating wildlife. Animal control programs shall only be conducted in accordance with a special use permit issued by the Refuge Manager.

§ 36.33 Cabins and other structures.

(a) *New Cabins.* (1) The construction of new cabins on federally owned lands within an Alaska National Wildlife Refuge is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Refuge Manager.

(2) Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the refuge was established and that the use of the cabin is either directly related to the administration of the refuge or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the refuge where the permit applicant has no reasonable alternative site for constructing a cabin outside of the Refuge. In determining whether to permit the use, occupancy, construction, reconstruction or maintenance of cabins or other structures, the Refuge Manager shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic or scientific values, subsistence uses, endangered or threatened species conservation and other management considerations necessary to ensure that the activities authorized pursuant to this section are compatible with the purpose for which the refuge was established. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.

(b) *Existing Cabins.* (1) Traditional and customary uses of existing cabins and related structures on federally owned lands within a refuge may be allowed to continue in accordance with a nontransferable, renewable five-year special use permit issued by the Refuge Manager. Such special use permit shall be issued only upon a determination that the traditional and customary uses are compatible with the purposes for which the refuge was established. No special use permits shall be issued to authorize the use of an existing cabin for private recreational use.

(2) Where a valid permit or lease was in effect on December 2, 1980, for cabins, homesites or similar structures on federally owned lands within a refuge, the Refuge Manager shall provide for the continuation of the permit or lease, unless a finding is made, following notice and an opportunity for the leaseholder or permittee to respond, that the continuation of the lease or permit will directly threaten or significantly impair the purposes for which the refuge was established.

(c) No special use permit shall be issued under paragraphs (a) or (b)(1) of this section unless the permit applicant:

(1) In the case of existing cabins or structures, reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory interests or right of occupancy in the cabin or structure;

(2) Submits an accurate sketch or photograph of the existing or proposed cabin or structure and a map showing its geographic location;

(3) Agrees to vacate the cabin or structure and remove all personal property from it upon nonrenewal or revocation of the permit;

(4) Acknowledges in the permit application that the applicant has no interest in the real property on which the cabin or structure is located or will be constructed; and

(5) Submits a list of the names of all immediate family members residing in the cabin or structure.

(d) Permits authorized under the provisions of this section shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure under permit. Renewal will occur unless the Refuge Manager determines after notice and hearing, on the basis of substantial evidence in the administrative record as a whole, that the use under the permit has caused or may cause significant detriment to the principal purposes for which the refuge area was established. The Refuge Manager's decision may be appealed

pursuant to the provisions of 43 CFR 4.700.

§ 36.34 Firearms.

The possession, use and transporting of firearms is authorized for hunting and personal protection in accordance with State and Federal laws unless prohibited or otherwise restricted by the Refuge Manager in accordance with the provisions of § 36.42.

§ 36.35 Unattended Property.

(a) Leaving any snowmachine, vessel, off-road vehicle or other personal property unattended for longer than 12 months without the prior permission of the Refuge Manager is prohibited, and any property so left may be impounded by the Refuge Manager.

(b) The Refuge Manager may (1) designate areas where personal property may not be left unattended for any time period, (2) establish limits on the amount and type of personal property that may be left unattended, (3) prescribed the manner in which personal property may be left unattended or (4) establish limits on the length of time personal property may be left unattended.

(c) Such designations and restrictions arising under paragraph (b) of this section shall be (1) published in at least one newspaper of general circulation within the State, posted at community post offices within the affected vicinity, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected community, and designated in a map which shall be available for public inspection at the office of the Refuge Manager, or (2) designated by the posting of appropriate signs or (3) both.

(d) In the event unattended property interferes with the safe and orderly management of a refuge area or causes damage to refuge resources, it may be impounded by the Refuge Manager at any time.

§ 36.36 Sled dogs and Household pets

The general trespass provisions of 50 CFR 26.21 shall not apply to household pets and sled, work or pack dogs under the direct control of their owners or handlers, but such activities may be prohibited or otherwise restrict pursuant to the provisions of § 36.42. Refuge Manager has the right to have the application reconsidered by the Regional Director by contacting him within 180 days of the issuance of the denial. For purposes of reconsideration, the permit applicant shall present the following information:

(a) Any statement of documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in the section under which the permit application is made;

(b) The basis for the permit applicant's disagreement with the prior findings and conclusions; and

(c) Whether or not the permit applicant requests an informal hearing before the Regional Director.

(d) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse or modify the denial of the Refuge Manager and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

§ 36.42 Public participation and closure procedures.

(a) *Authority.*The Refuge Manager may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrrict an activity otherwise allowed, the Refuge Manager shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner campatible with the purposes for which the Alaska National Wildlife Refuge area was established.

(c) *Emergency closures or restrictions.* (1) Emergency closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation shall be made after notice and hearing; (2) ememgency closures or restrictions relating to the taking of fish and wildlife shall be accompanied by notice with a subsequent hearing; (3) other emergency closures or restrictions shall become effective upon notice as prescribed in § 36.42(f); and (4) no emergency closure or restriction shall be for a period exceeding 30 days.

(d) *Temporary closures or restrictions.* (1) Temporary closures or restrictions relating to the use of aircraft, snowmachines, motorboats or nonmotorized surface transportation, or to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) affected by such closures or restriction, and other locations as appropriate; (2) Other temporary closures shall be effective upon notice as prescribed in § 36.42(f); (3) temporary closures or restrictions shall extend only for so long as necessary to achieve their purposes, and in no case may exceed 12 months or be extended beyond that time.

(e) *Permanent closures or restrictions.* Permanent closures or restrictions shall be made only after notice and public hearings in the affected vicinity and other locations as appropriate, and after publication in the **Federal Register.**

(f) *Notice.* Emergency, temporary or permanent closures or restrictions shall be (1) published in at least one newspaper of general circulation in the State and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Refuge Manager and other places convenient to the public; or (2) designated by the posting of appropriate signs; or (3) both.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Refuge Manager shall provide notice in the **Federal Register** and shall, upon request, hold a hearing in the affected vicinity and other location, as appropriate prior to making a final determination.

(h) Except as otherwise specifically permitted under the provision of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

Table I—Summary Listing of the National Wildlife Refuges in Alaska as established by the Alaska Lands Act, Pub. L. 96-487, December 2, 1980

1. Alaska Maritime, including:
   Aleutian Island*
   Bering Sea*
   Bogoslof*
   Chamisso*
   Forrester Island*
   Hazy Islands*
   Pribilof*
   Saint Lazaria*
   Semidi*
   Simeonof*
   Tuxedni*
2. Alaska Peninsula
3. Arctic, including: William O. Douglas*
4. Becharof**
5. Innoko
6. Izembek*
7. Kanuti
8. Kenai*
9. Kodiak*
10. Koyukuk
11. Nowitna
12. Selawik
13. Tetlin
14. Togiak, including: Cape Newenham*
15. Yokon Delta, including:
   Clarence Rhode*
   Hazen Bay*
   Nunivak*
16. Yokon Flats**

[FR Doc. 81-17968 Filed 6-16-81; 8:45 am]
BILLING CODE 4310-55-M

*These indicated units were previously existing refuges before the Alaska Lands Act of December 2, 1980, and are now part of the 16 National Wildlife Refuges established by the Alaska Lands Act.

federal register

Wednesday
June 17, 1981

Part III

Department of the Interior

Fish and Wildlife Service

National Park System Units in Alaska; Public Uses

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

National Park System Units in Alaska

AGENCY: National Park Service, Interior.
ACTION: Final rule.

SUMMARY: These final rules provide interim guidance on public uses of National Park System units in Alaska, including units established by the Alaska National Interest Lands Conservation Act (ANILCA) (Pub. L. 96–487 (December 2, 1980)). This rulemaking has a three-fold purpose. First, it relieves otherwise applicable regulatory provisions of 36 CFR Parts 1–9 which are generally inappropriate in the unique Alaska setting (e.g., restrictions on firearms, camping, picnicking, access, use of natural features). Second, it establishes administrative procedures necessary to implement or clarify various provisions of ANILCA (*e.g.*, access, use of cabins). Third, with the new management direction provided by ANILCA, this rulemaking seeks to remove public confusion on what public use activities are now authorized for National Park System units in Alaska. This final interim rulemaking adopts many suggestions offered in the public comment period on the January 19, 1981, proposed rules (*see* 46 FR 5642). These regulations are being made immediately effective to provide public guidance in time for peak park use seasons. These regulations are the minimum necessary for interim administration of Alaska park areas.

EFFECTIVE DATE: June 17, 1981.

FOR FURTHER INFORMATION CONTACT: John Cook, Alaska Regional Director, National Park Service, 540 West 5th Avenue, Anchorage, Alaska 99501, Telephone: (907) 271–4196.

SUPPLEMENTARY INFORMATION:

Background

The Alaska National Interest Lands Conservation Act (ANILCA) is a broad-ranging act which established new National Park System units in Alaska and provided special management direction for Federal park areas in Alaska. The areas administered by the National Park Service in Alaska consist of the following 16 units: Alagnak National Wild River, Aniakchak National Monument and Preserve, Bering Land Bridge National Preserve, Cape Krusenstern National Monument, Denali National Park and Preserve, Gates of the Arctic National Park and Preserve, Glacier Bay National Park and Preserve, Katmai National Park and Preserve, Kenai Fjords National Park, Klondike Gold Rush National Historical Park, Kobuk Valley National Park, Lake Clark National Park and Preserve, Noatak National Preserve, Sitka National Historical Park, Wrangell-St. Elias National Park and Preserve, and Yukon-Charley Rivers National Preserve.

On January 19, 1981, the National Park Service proposed rules (46 FR 5642) to provide interim guidance on public uses of these park areas. The proposed rules addressed limited items which had been covered for the most part by prior public notice and comment and which were necessary to provide public guidance. The items addressed in this rulemaking include access, use of cabins, camping and picnicking, carrying of firearms, preservation of natural features, subsistence and application procedures. Further rulemaking efforts will involve more expansive public guidance on the implementation and interpretation of ANILCA.

Need for Expeditious Rulemaking and Immediately Effective Date

Under 5 U.S.C. 553(d), an agency is authorized to make final regulations immediately effective when the regulation relieves restrictions, is an interpretive rule, or when good cause exists for expeditious rulemaking. The National Park Service (NPS) desires to utilize the immediately effective date for the following reasons.

First, many of the provisions relieve the otherwise applicable restrictions of 36 CFR Parts 1–9, which are inappropriate in the unique Alaska setting. For example, standard restrictions on access, firearms, preservation of natural features, abandoned property and camping and picnicking are relieved by these regulations.

Second, certain portions of these regulations constitute interpretive rules giving the Department's views on existing legal duties. These interpretive rules are found in § 13.15 (c) and (d).

Third, and most importantly, the Department has found that good cause exists for immediately effective regulations. This good cause finding is based on many factors, including: (1) The need to provide definitive public guidance on allowed activities for the peak park use seasons, (2) the need to alleviate public fears and confusion arising from directives in ANILCA which are inconsistent with existing NPS regulations (*e.g.*, aircraft and snowmobile access), and (3) the need to have in place administrative procedures for obtaining statutory benefits under ANILCA (*e.g.*, access to inholdings, temporary access, cabins, subsistence). Additionally, the substantial public comments received on past proposed rules (*see* 44 FR 11242, February 28, 1979, and 44 FR 37732, June 28, 1979) covering the same topics, as well as public participation in the Alaska Lands legislative effort, support the good cause finding for expeditious rulemaking.

Summary of Comments

These rules were published in proposed form for public comment on January 19, 1981 (*see* 46 FR 5642), with the comment period extended to March 16, 1981. *See* 46 FR 14021 (February 25, 1981). The National Park Service received 391 timely written comments regarding the proposed interim regulations. Comments were received from 340 individuals, 13 corporations and businesses, 27 organizations, four community governments, the State of Alaska, the Environmental Protection Agency, and the Alaska Congressional Delegation. In addition, four petitions with a total of 622 signatures were received.

Analysis of Comments

Subpart A—Public Use and Recreation.

Definitions—The definition of "adequate and feasible access" in § 13.1(a) has been revised in response to public comments and to clarify what forms of access are entitled to the statutory benefits of § 1110(b) of the Alaska Lands Act. Several commenters objected to the intimation that the National Park Service would determine what is a "reasonable use or development" of an inholding. The § 13.1(a) definition has been revised to clarify that the inholder determines the desired land use or development, and the Service provides reasonable access to meet the desired land use.

Two commenters suggested that the definition of "fish and wildlife" should specifically exclude domestic and exotic animals. The term "fish and wildlife" tracks the language of the statute.

A few individuals expressed confusion over the use of the term "park areas." The term park areas is defined as lands and waters administered by the National Park Service within the State of Alaska and includes parks, preserves, monuments, historical parks and wild and scenic rivers.

Several commenters suggested the use and a definition for the Alaska Lands Act section 1110(a) term "snowmachine." Section 13.1(q) adopts this suggestion by defining a

"snowmachine" in parallel terms to a "snowmobile."

Applicability and Scope

A substantial number of comments (203) objected to making these regulations applicable to all park areas in Alaska (*see* §§ 13.1(m), 13.2), including pre-ANILCA areas like the former Mt. McKinley National Park and Katmai and Glacier Bay National Monuments. The proposed regulations were viewed by these commenters as an unwarranted lessening of protective measure for these "old" park areas.

On some issues such as access, the ANILCA definition of "conservation system units" compels equal treatment for old and new park areas (*see* sections 102(4), 1102(4), 1110, 1111 of ANILCA), and these regulations carry out that statutory mandate. However, for other topics, where NPS possesses policy discretion (*e.g.*, firearms, use of natural features), the Service has taken into account public desires to continue the preexisting management scheme for old park areas. The applicability of these regulations to specific park areas is discussed below.

Snowmachines—A few commenters registered opposition to the use of snowmachines within park areas, or suggested their use be restricted only to subsistence purposes or to new park areas. The National Park Service is mandated to comply with the provisions of section 1110(a) of ANILCA which authorizes snowmachine use in park areas for "traditional activities" and "travel to and from villages and homesites." These final regulations track that statutory language, as suggested by many individuals.

A definition of adequate snow cover as snow of sufficient depth to protect underlying vegetation and soil from damage was added in response to public comments.

Motorboats—One commenter objected to § 13.11's retention of the 36 CFR § 7.23(c) cruise ship provisions for Glacier Bay on the basis that section 1307 of ANILCA precluded such regulation. The purpose of § 13.11 is to implement section 1110(a) of ANILCA concerning small motorboats. The retention of 36 CFR 7.23(c) merely preserves the status quo until the Department completes its regulatory review of this provision and does not violate the provisions of section 1307 of ANILCA. For these reasons, the Service did not adopt the suggestion to delete 36 CFR 7.23(c).

Nonmotorized Surface Transportation—In response to public comment, § 13.12 was added to authorize the general use of nonmotorized surface transportation (*e.g.*, dog sleds, horses) in park areas. This addition also reflects the mandate in section 1110(a) of ANILCA.

Aircraft—Many comments (103) were received on the issue of fixed-wing aircraft vis-a-vis helicopters. In response to comments, the National Park Service, in these final regulations, has differentiated between fixed-wing aircraft and helicopters. Helicopter use, other than at designated landing areas, shall be in accordance with the reasonable terms and conditions of a permit issued by the Superintendent.

One commenter suggested that in the subsection on removal of downed aircraft the phase "shall remove" should be changed to "may be required to remove." The Service is not adopting this recommendation because this subsection further provides that this requirement may be waived by the Superintendent upon a determination that the removal of downed aircraft would constitute an unacceptable risk to human life; result in extensive resource damage; or is otherwise impracticable or impossible.

The public comment on § 13.13(d) focused primarily on the economic test for salvage operations. The Service intends to be reasonable in applying the significant economic hardship test for waiving removal requirements.

Off-Road Vehicles—Several commenters suggested that NPS allow ORV use along established trails and routes that have been subject to significant ORV use in the past. The National Park Service has partly responded to this recommendation in this final rulemaking. The Park Service was not able to respond completely, however, because the designation of ORV trails in wilderness areas is prohibited by Executive Order 11644 (Use of Off-Road Vehicles on Public Lands) and the Wilderness Act. The Service has opted to provide the Superintendent with general authority to issue ORV use permits for existing trails in non-wilderness park areas where such use would not be detrimental to park resources. It should be noted that there is no statutory directive to provide for general ORV use in park areas. This rewritten rule will enable ORV use by permit as appropriate.

Many individuals suggested that NPS designate only "routes" for ORV use, and not "areas." The Service has not deleted the word "areas" from this regulation because the phrase "routes or areas" tracks the language of E.O. 11644 and 36 CFR 4.19 (general NPS regulations on ORVs).

Access to Inholdings—Section 13.15 of these regulations, which emplements the ANILCA section 1110(b) guarantee of adequate and feasible access to inholdings, has been revised to make clear that an access permit is required only when the inholder desires an access method that is not authorized by other provisions of these regulations. Also, in response to public comment, the revised § 13.15(a) deletes as unnecessary a reference to alienating Federal property that was contained in proposed regulations.

Section 13.15(b) has been revised to state uniform, minimally burdensome information requirements for obtaining access permits. Several commenters had objected to the special information requirements for mineral access in the proposed regulations. These have been deleted in the final regulations.

Several commenters suggested an access notification system instead of a permit system. These suggestions were not adopted because a permit system was contemplated by Congress in section 1110(b) of ANILCA and because a permit system appears to be required to minimize park resource damage in accordance with 16 U.S.C. 1, 1a-1.

Many comments were received stating that the implied distinction between ordinary access to inholdings and permanent access is not supported by statute. The revised section 13.15(c) responds to these comments on access requiring permanent improvements on park area lands (*e.g.*, road or bridge construction). Section 13.15(c) is an interpretive rule on the relationship between ANILCA section 1110(b) access to inholdings and sections 1101–1107 "transportation or utility systems."

Temporary Access—Many commenters favored reducing the application information burdens for temporary access. This change has been made here, as it has in the above provision on access to inholdings. Mineral and non-mineral temporary access have been combined into one provision, in response to public comment. The final regulation also responds to comments by defining temporary access as limited, short term (up to one year) access, which does not require permanent facilities for access, to undeveloped non-federal lands.

Cabins and Other Structures—The regulation on use of cabins is largely unchanged from the proposed regulations. While some commenters objected to the § 13.17(b)(2)(v) requirement of listing immediate family members residing in the cabin, the Service believes this information is essential for accurate permit renewals to family members, and is necessary to protect the occupancy interest of the

immediate family. ANILCA, section 1303(c). This is a dynamic, and not a one-time process. As individuals are added to the immediate family, they can be added to this listing.

A few commenters expressed concern that the ultimate intention of the NPS was to phase out cabin use within park areas in Alaska. It is neither the Service's intent, nor is it allowed by ANILCA, that such use be eliminated.

Camping and Picnicking—The public comments on § 13.18 primarily favored the general opening of Alaska park areas to camping and picnicking. Though some public concerns were expressed over consequences for subsistence uses or sensitive areas, the Service feels it can adequately protect these interests through the closure authority of § 13.30.

Weapons, Traps and Nets—The public comment on this section was varied, with some commenters supporting the carrying of firearms for self-protection and some commenters raising concerns over wildlife protection. The revised § 13.19 distinguishes between the pre-ANILCA park areas (where the carrying of weapons is still generally banned by 36 CFR 2.11) and the park areas established by ANILCA (where § 13.19 is controlling). Although the potential for harm from wildlife exists throughout Alaska, the Service feels that it can make this distinction. The "old park" areas have the staffs and materials necessary to provide individuals with information on personal safety. That capacity does not exist in the recently established areas.

Preservation of Natural Features—Section 13.20, on protection of natural resources, has been revised in two ways in response to public comment. First, in response to commenters suggesting a higher standard of protection for pre-ANILCA park areas, § 13.20(a) retains the 36 CFR 2.20 standards (*e.g.*, no cutting of dead standing trees, restrictions on collecting rocks and minerals) for non-subsistence uses in Klondike Gold Rush National Historical Park, and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument areas. Second, for all other Alaska park areas, § 13.20(c) adopts commenter suggestions to authorize recreational gold panning not involving surface disturbance (*e.g.*, the use of hand-held gold pans is authorized, but the use of sluice boxes, shovels, pickaxes, or dredges is prohibited).

A few individuals objected to allowing any collection of natural features or suggested that such collection only be allowed by permit. At this time, the Service does not believe that the liberalized collection of natural features will result in adverse environmental consequences, due to protection against surface disturbance, low visitation rates and, ultimately, closure authority.

Taking of Fish and Wildlife—Many public comments suggested either allowing sport hunting in all park areas, or conversely, not allowing sport hunting in preserves. These comments were not adopted due to the legislative direction of sections 1313 and 1314 of ANILCA.

In response to public comment, § 13.21 deletes a reference to trapping as an "agent" of another person, in order to authorize family or other trapping arrangements not involving payment within national preserves.

Unattended and Abandoned Property—The public comment generally was in favor of liberalizing the general NPS regulations' time periods for leaving unattended property as a means of implementing a good neighbor policy in Alaska. Suggested times ranged from 7 days to 3 years, and the Service opted to retain the proposed 1 year period. This period of time is not inflexible—it can be less, and with the permission of the Superintendent, it could be more.

Some commenters objected to the impoundment authority of § 13.22(d). However, the Service believes that this problem can be avoided by checking with the Superintendent prior to leaving unattended property.

Other individuals and organizations suggested that unattended property be sheltered from public view or that the Service was allowing the inappropriate use of park areas for private profit. The Service has not adopted the suggested restrictions. Shielding unattended property from public view is difficult to do in tundra areas and may have more visual impact than the property itself. Finally, the Superintendent does have impoundment authority.

Closures—Some commenters suggested that the Service be more specific in delineating the range of the § 13.30(b) closure criteria, such as by eliminating "other management considerations." However, the NPS cannot forecast in advance the complete range of criteria that would be applied to closure decisions to meet the park protection standard of 16 U.S.C. 1, 1a–1. Thus, while the Service expects that the vast majority of closure decisions will be based on delineated factors like public safety and resource protection, the Service does not feel it appropriate to specify a definitive list of criteria.

A few individuals also objected to "public health and safety" as a criteria for closure since many "bush" activities are inherently unsafe. The Service recognizes that many activities conducted within park areas are inherently dangerous. In this instance, however, the NPS is focusing on significant public health and safety (i.e. polluted water supply, a large fire where speed and direction of burning is unpredictable).

In response to a public comment the Service has added the generic term "cultural values" for "historic values" for determining criteria for closures. This term "cultural" is used by the NPS and includes "historic" values.

Several commenters recommended that hearings be held in the area affected by a permanent closure. The Service has adopted this recommendation. In response to comments the NPS has also limited emergency closures to a maximum of 30 days.

The NPS has not adopted two suggestions. The first is that temporary closures be restricted to a maximum of 6–9 months. The Service believes that it needs the flexibility to temporarily close for periods up to 12 months (*i.e.*, fire hazard). This does not mean that all temporary closures will be for this length of time: They could be shorter. The other suggestion was a recommendation that the public comment period be 90 days for permanent closure. This is already included in the regulation as written. The public comment period on permanent closures must be a *minimum* of 60 days; it could be longer.

Permits—Section 13.31 consolidates procedures regarding the issuance and denial of permits. The Superintendent is directed to acknowledge the application promptly, and to approve the permit, deny the permit, or request additional information within 45 days unless he/she notifies the applicant of a good cause extension. The normal 45-day response time and a statement of reasons for any permit denial were added in response to public comments. Additionally, in response to comments, the Service has incorporated into this section a provision which allows an applicant to submit his or her application orally.

Any person whose permit application has been denied by the Superintendent has a right to appeal that denial to the Regional Director within 180 days of permit denial. The longer appeal time (from 60 days in proposed regulations) reflects public comments that a shorter appeal time could be detrimental to the

applicant, whereas a longer appeal time will not hurt the government. Section 13.31(b)(2) has been revised to grant the applicant the opportunity for a hearing upon request, as suggested in public comments.

Subpart B—Subsistence

General Comments. The issue of subsistence continues to be the most difficult of all the issues affecting the new National Park Service areas in Alaska.

The State of Alaska, the State Congressional Delegation, and certain sportsmen's groups opposed any federal regulation of subsistence, especially in the one year period provided by section 805(d) of ANILCA for the State to establish an adequate subsistence program. The National Park Service is sensitive to the State's concerns and looks forward to a State subsistence program implementing ANILCA's requirements. In the meantime, the Service has pared its program to the minimum required by ANILCA. For example, the Service has deleted the system of resident zones and subsistence permits for park preserves. Nevertheless, the one-year "grace" period for the State does not relieve the Park Service of certain basic responsibilities under Titles II and VIII of ANILCA. Unlike the other conservation system units in Alaska, parks and monuments are closed to hunting except for subsistence hunting by "local rural residents" where specifically authorized by ANILCA. ANILCA, sections 201–203, 816(a), 1313, 1314. Consequently, the Park Service must immediately implement a system for identifying "local rural residents" in order to allow them, but not others, to engage in subsistence hunting in national parks and monuments. In addition, section 808(c) of ANILCA specifically requires the Secretary to permit subsistence uses by local rural residents pending implementation of park and park monument subsistence resource commissions. The Park Service has tried to adopt the type of identification system that Congress intended. *See* S. Rep. No. 96–413, 96th Cong., 1st Sess. 168–171 (1979); 126 Cong. Rec. H 10540–41 (daily ed. Nov. 12, 1980). It bears repeating, however, that the Park Service is anxious to incorporate a State program which implements the various subsistence mandates. By December 2, 1981, the Secretary of the Interior must review the State program to determine whether it meets ANILCA's requirements for the subsistence definition, priority, and participation (sections 803, 804, 805). The Secretary has not yet undertaken this review. In the meantime, and until such time as a State program is determined to supersede the various aspects of the federal program, the Park Service regulations seek to carry out the subsistence duties which ANILCA imposes on the Secretary.

Commenters from rural Alaska stressed the need for consultation with local rural residents as part of any decisionmaking that could affect subsistence uses. The National Park Service believes such consultation is prudent and essential. Several provisions of the regulations institutionalize public hearings in the local vicinity affected by an action. *See* sections 13.43(b), 13.45(b)(ii) and (iii), 13.46(c), 13.49(c), 13.50(a) and (b). Pending creation and operation of the local advisory committees and regional advisory councils of section 805 of ANILCA and the park and park monument commissions of section 808, the Park Service will try to involve local rural residents in decisionmaking that may affect them to the fullest extent possible.

Several native organizations urged the National Park Service to adopt regulations implementing section 806 of ANILCA on "Federal Monitoring," section 807 on "Judicial Enforcement," and section 812 on "Research." Although the Park Service appreciates the importance of these statutory provisions, it determined when it published the proposed regulations that these provisions do not lend themselves to expeditious implementation since they have not previously been the subject of notice and comment. The Alaska State Congressional Delegation commented that proposed regulation § 13.22 implementing section 810 of ANILCA should be deleted according to the same logic; furthermore, they pointed out, the proposed regulation did nothing more than repeat section 810 of the Act verbatim. For these reasons, today's final regulations do not contain provisions implementing sections 806, 807, 810, and 812. It should be emphasized, however, that all parties must comply with these statutory provisions as long as they remain in effect.

Purpose and Policy. Some commenters requested the Park Service to expand by regulation the purposes for which the park areas were established to include "subsistence uses by local residents" or "the protection and enhancement of subsistence hunting and fishing by local rural residents." Congress clearly authorized subsistence uses by local rural residents in all park preserves and in specifically designated parks and monuments. ANILCA, sections 201–203. Congress did not, however, make subsistence a "purpose" of these units. Consequently, the National Park Service believes it would be inappropriate, especially in the context of this interim rulemaking exercise, to expand the Congressionally designated purposes of the park areas to include subsistence uses. Moreover, the Park Service does not have the authority to expand the authorization for subsistence hunting beyond the specific Congressional authorization. *See, e.g.*, section 816(a) of ANILCA. Nevertheless, consistent with its policy throughout the legislative process and during the national monument period, the National Park Service fully supports the continuation of the opportunity for subsistence uses by local rural residents where authorized. The Park Service believes that subsistence uses are an important value of these new park areas, and the Service intends to protect these uses through regulations and policies.

One group requested that the Park Service amplify the "least adverse impact" policy statement to require consideration of "potential and actual deleterious impacts of visitation upon local rural residents". The Park Service has decided not to amplify this policy statement or modify its statutory language to cover one of many possible conflict situations in legitimate park uses, especially in the context of this interim rulemaking. For the present, the Park Service will consider such conflict situations on a case-by-case basis.

Some commenters requested the Park Service to include "national monuments and preserves" in addition to "park areas" in the subsistence priority provisions of § 13.40 (c) and (d) and other regulations. These commenters have misunderstood the phrase "park areas". By definition in § 13.1(m), the term "park areas" means "lands and waters administered by the National Park Service within the State of Alaska"; accordingly, the term "park areas" includes parks, monuments, and preserves. A regulation will specify "national parks and monuments" or "preserves" whenever its applicability is more specific than "park areas". The subsistence priority set forth in § 13.40 (c) and (d) clearly applies to all park areas.

The Alaska Federation of Natives (AFN), NANA Regional Corporation (NANA), and Alaska Legal Services (ALS) on behalf of the residents on Anaktuvuk Pass, suggested a technical rewrite of § 13.40(d) which the Park Service has in large part adopted in the

final regulations. The rewrite clarifies that the three criteria of the subsistence priority system apply only to persons already engaged in subsistence uses. Consequently, if consumptive uses of a fish or wildlife population must be restricted, § 13.40(c) assures that consumptive uses would first be limited to local rural residents engaged in subsistence uses. Then, if further restrictions become necessary, § 13.40(d) establishes the criteria for allocation among the local rural residents.

The Park Service received various recommendations for acknowledgement in the regulations of the State of Alaska's role in regulation of fish and wildlife for subsistence uses within park areas. *See* ANILCA, section 1314. In response, the Park Service is promulgating § 13.40(e) which recognizes State regulation of the taking of fish and wildlife in park areas consistent with applicable Federal law, including ANILCA. For example, the Park Service expects the State to continue to regulate seasons and bag limits in the park areas. Furthermore, as mentioned previously, the Park Service anticipates that a State subsistence program, implementing ANILCA's various subsistence mandates, will eventually supersede most federal regulation of subsistence.

ALS requested that the Park Service define the terms "healthy" and "healthy and natural" now in § 13.40(f) of the regulations. The Service has not defined these new terms in the context of this interim rulemaking. However, the Service has quoted at length from Congress' explanation of these concepts in the Section-by-Section Analysis of this preamble in order to guide park officials in their implementation of them.

Applicability. Two organizations recommended that the National Park Service authorize subsistence fishing—*i.e.*, fishing with a net, seine, trap or spear for subsistence uses—in all national parks and monuments. The Park Service has decided against this recommendation for the following reasons. As mentioned above, ANILCA is specific as to where subsistence uses, including fishing, are authorized in national parks or monuments. *See ANILCA*, sections 203, 1314(c). Expansion of this specific authorization, particularly in the context of this interim rulemaking, would be inappropriate. Furthermore, expansion without consideration of impacts could jeopardize park values. Section 2.13 of the Park Service's general regulations constitutes the Service's determination that fishing methods should be restricted in most cases to protect park values. This general regulation prohibits the use of any fishing method other than hook or line with the rod or line being held in the hand. 36 CFR 2.13(j)(2).

With respect to ANILCA's mandate incorporated in § 13.41(c), Mauneluk Association commented that historic harvest levels, patterns, and methods should be examined to determine where subsistence uses are "traditional" in Aniakchak National Monument, Gates of the Arctic National Park, Lake Clark National Park, Wrangell-St. Elias National Park, and the Denali National Park addition. ALS, on behalf of the residents of Anaktuvuk Pass, cited studies to support its belief that subsistence uses are traditional in the entire area of Gates of the Arctic Park. Since local input like the above is essential to developing the "subsistence hunting zones" for the five park areas, the Park Service has not designated these zones in this rulemaking exercise. The local committees, regional councils, and park and monument commissions should facilitate such local input into these designations.

Definitions. Certain Native organizations recommended that additional evidence be required to determine an individual's qualification as a "local rural resident". Their recommendations included a one-year residency requirement, recognition by the local government, and affidavits.

> The [Anaktuvuk Pass] village people are worried about possible abuses of outside people quickly establishing addresses for mail and other matters within the village, when their primary goal is to obtain the benefits of being included within the "resident zone" for hunting within the area.

To some extent, proper implementation of the definition of "local rural resident" in § 13.42(a) should prevent most such abuses. An individual's address is only one of many evidentiary factors which should be used to determine an individuals "primary, permanent home". Nevertheless, the rural people's concern and their recommendations for further evidence of local rural residency deserve thoughtful consideration. Their recommendations have intuitive appeal, but also present legal and equitable problems. The Park Service believes that the local committees, regional councils, and park and monument commissions are more appropriate forums than this interim rulemaking for deciding whether and how to implement such recommendations.

The State of Alaska strongly opposed the creation of "resident zones" for park preserves. In response, for purposes of this interim rulemaking, the National Park Service has decided to eliminate the system of resident zones and subsistence permits for identifying "local rural residents" in park preserves. The Park Service agrees that the need to identify "local rural residents" in preserves is not as pressing as in parks and monuments since sport hunting is allowed in preserves. The Park Service believes that the remaining reasons for identifying "local rural residents" in preserves—namely, to control subsistence fishing and log cutting—can be handled through other regulatory mechanisms, such as enforcement of State subsistence law with regard to fishing and retention of the permit requirement for cutting of live standing timber.

Most comments on the definition of "subsistence uses" concerned the Park Service's definition of "customary trade". In general, the comments indicated strong support for the Service's inclusion of fur trading within the term. Three commenters objected, however, that the definition was too limited. For example, one commenter wrote that

> [C]ustomary trade in Alaska is involved in more than the exchange of furs for cash. Quite often there is trade for specific items or merchandise including food and fuel.

The definition of "subsistence uses" adequately covers these concerns in its provision for "barter". The "barter" definition, taken verbatim from section 803 of ANILCA, allows local rural residents to trade furs for fish, game, food, or nonedible items other than money for personal or family consumption. The Park Service's definition of "customary trade" serves to expand the permissible exchange to include, in addition, furs for cash. One rural group, however, pointed out a customary trade practice that the proposed definition of "subsistence uses" did not cover: the customary and traditional making and selling of certain handicraft articles out of plant materials. The Park Service has included special provisions in the final regulations to allow for these activities (*e.g.*, the making and selling of birch bark baskets) in the two park areas where they are known to occur, Kobuk Valley National Park and the southwestern preserve area of Gates of the Arctic National Park and Preserve.

Determination of Resident Zones. The National Park Service received diverse comments on resident zones. As already discussed, the State and State Congressional Delegation opposed federal designation at this time of any

resident zones, and particularly resident zones for park preserves. In response, the Park Service has deleted from these final interim regulations resident zones for preserves, but the Service has interpreted ANILCA and other authorities as requiring resident zones for parks and monuments. The Alaska Center for the Environment suggested eventual replacement of resident zones with subsistence permits. According to ANILCA's legislative history, however, Congress intended the Park Service (1) to devise a system of resident zones as the primary mechanism for identifying local rural residents in park areas, and (2) to avoid a subsistence permit system to the extent possible. *See* S. Rep. No. 96-413, *supra*, 170-71; 126 Cong. Rec. at H 10541. Congress recognized that subsistence permits may be necessary in certain situations as an adjunct to the system of resident zones. *Id.* The Park Service agrees, however, with the Center for the Environment's underlying thought that implementation of the subsistence program will benefit from experience and, in all likelihood, undergo changes in the future.

In response to most comments on the subject, the Park Service has already made a significant change in the final regulations from the proposed regulations by adopting a more liberal designation of communities for inclusion in resident zones. *See* Subpart C regulations. This liberal designation is consistent with the intent of Congress described above. It should be noted, however, that the Park Service has retained other regulatory mechanisms to prevent abuse of the subsistence program, such as the general prohibition of aircraft use for subsistence purposes and the possibility of removing a community from a resident zone if the character of the community changes.

The policy of more liberally designating resident zones is reflected in certain technical changes in the language of § 13.43. As the State, AFN, and others suggested, the Park Service has deleted the phrase "available information and research" from the regulation in order to clarify that the Service will consider all relevant evidence concerning a community's qualification, including expert opinion from reliable local and State sources. The Park Service has also substituted the word "significant" for the word "preponderant" in the phrase "communities and areas * * * which contain significant concentrations of rural residents who, without using aircraft * * * have customarily and traditionally engaged in subsistence uses within a national park and monument". The word "preponderant" implied more numerical precision than is possible without an extensive standardized study of rural villages in Alaska, certainly an impossible task in the context of this interim rulemaking. The Park Service adopted the word "significant" to clarify that the subsistence experts must exercise some discretion in examining the nature and needs of each community. Of course, the availability of subsistence permits assures that subsistence users whose communities are not included in a resident zone for whatever reason may nevertheless have the opportunity to engage in subsistence uses in a national park or monument.

Finally, in response to a suggestion from AFN, the Park Service has modified § 13.43 to assure that children of local rural residents living in the family household on a permanent basis will be considered in determining whether a community has the necessary "significant concentrations".

Subsistence Permits. The Alaska State Congressional Delegation objected to "any actions regarding federal permits under these regulations," pointing out that "[t]here is no authorization for a federal hunting permit". The National Park Service has no intention of instituting a federal hunting permit. The subsistence permit described in § 13.44 of the regulations is not a federal hunting permit; rather, it is part of the system contemplated by ANILCA for identifying the "local rural residents" who are authorized to engage in subsistence uses in national parks and monuments. The subsistence permit system is necessary to ensure the fairness of a regulatory system which seeks primarily—by means of resident zones—to avoid the necessity of permits in allowing subsistence uses by local rural residents. Thus, the subsistence permit system is an integral part of the resident zone system. As a corollary, the Park Service's decision to retain the resident zone system but limit it to national parks and monuments necessitated a similar change in the scope of the subsistence permit system: the system of resident zones and subsistence permits no longer applies to park preserves. As another corollary, the Service's decision to expand resident zone designations, thereby encompassing more subsistence users within the zones, should reduce the number of subsistence users who must apply for a permit.

Some commenters expressed concern over the Park Service's ability to institute a permit system on an expedited basis. The Park Service has changed the effective date for the permit requirement from July 15, 1981 to August 1, 1981. The Service believes this date is reasonable because (1) the permit application process is relatively simple and straightforward and (2) the number of permit applicants should be fewer as a result of the liberalization of resident zones. Of course, persons who will need a subsistence permit should begin the application process immediately.

One group commented that the regulations should define the terms "customarily and traditionally". The Service has decided not to define these terms for purposes of this interim rulemaking, since their definition requires extensive prior comment and research as well as the advice of the local committees, regional councils, and park and monument commissions. Nevertheless, the Section-by-Section Analysis provides explanation of the legislative and regulatory intent behind the terms and the provisions in which they are used.

The final regulation on subsistence permits contains two technical changes. At the suggestion of AFN, NANA, and the State, the Park Service has deleted the phrase "available information and research" in § 13.44(a)(2) to allow the applicant greater flexibility in the type of evidence that may be presented. In addition, at AFN's and NANA's suggestion, the Park Service changed the tone of § 13.44(a) from negative to positive, i.e., "the Superintendent *shall* grant the permit *if* * * *" (emphasis added); this change of tone, however, does not reduce the applicant's burden of proof to make the demonstration required by § 13.44(a).

Prohibition of Aircraft Use. The aircraft prohibition of § 13.45(a) is a key provision for protecting park values, including subsistence. Two groups had very strong, but diametrically opposed, views on the subsistence aircraft regulation. Residents of Glennallen, Slana, and Tok submitted several comments that argued for allowance of aircraft as "the most feasible and ecologically sound access means in many cases". Friends of Animals, on the other hand, opposed *any* allowance of aircraft for subsistence uses as a "total perversion of the concept of subsistence hunting, trapping, and fishing * * *." The National Park Service has retained the subsistence aircraft regulation as proposed without change. It implements the intent of Congress that aircraft use for subsistence purposes is the rare exception, not the rule. S. Rep. No. 96-413, *supra*, 169; 126 Cong Rec. H. 10541. It nevertheless provides for exceptions to the aircraft prohibition in individual

hardship situations. A local rural resident who believes he/she meets the exception criteria of § 13.45(b)(2) should pursue the simple application procedures of § 13.51.

The subsistence aircraft regulation also provides for exceptions for entire communities in special cases. Anaktuvuk Pass and Yukutat are the only "exempted communities" listed in this interim rulemaking. The comments received on these provisions supported them. North Slope Borough, for example, supported the inclusion of Anaktuvuk Pass, pointing out that

> [T]his exemption would not have to flow to all members of the North Slope community * * *. Others accessing the Gates of the Arctic area from North Slope villages tend to rely upon modes of transportation such as snowmobiles or gain access by foot.

North Slope Borough asked for clarification of whether every resident of an exempted community like Anaktuvuk Pass must apply for an individual permit pursuant to the procedures of § 13.51 before using aircraft. The answer is no. Each individual must obtain a permit from the Superintendent, however, which shows his/her signature and any special terms or conditions applicable to the individual. The Park Service will attempt to streamline this permit process by devising a relatively standard permit for the entire community, subject only to special individual terms, conditions, and signature. Finally, two rural groups sought assurance that local consultation would precede additions or deletions of exempted communities. Sec. 13.45(b)(ii) and (iii) requires such consultation.

Use of Snowmobiles, Etc. Several commenters suggested that § 13.46 specifically reference dog teams as a mode of transportation traditionally employed by local rural residents engaged in subsistence uses. The Park Service has included this reference in the final regulations. Tanana Chiefs Conference further pointed out the traditional use of pack and work dogs. The phrase "other modes of surface transportation" in § 13.46 allows for traditional use of pack and work animals (*e.g.*, dogs and horses) by local rural residents engaged in subsistence uses. Tanana Chiefs Conference and an individual added that dogs should be kept under the immediate control of users. The Park Service's general regulations require that dogs be kept "under physical restrictive control at all times". 36 CFR § 2.8(a).

The allowed use of motorized surface transportation in accordance with the provisions of § 13.46 evoked two objections. One environmental organization commented that "the use of snowmobiles, motorboats and off-road vehicles is * * * abhorrent to the notion of subsistence hunting * * *" Section 811(b) of ANILCA, however, mandates the Secretary to allow "appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to reasonable regulation". Section 13.46 implements this statutory mandate (§ 13.46(a)), highlights its limitations (§ 13.46(e)), and provides for appropriate restrictions, closures, and regulation (§ 13.46(b)–(d)). Another environmental organization recommended that the Park Service prohibit motorized surface transportation other than snowmachines and motorboats (*e.g.*, ATV's) except by permit upon a demonstration of "traditional use" by the local rural resident. The Park Service has decided against this recommendation in this rulemaking exercise since (1) the Service wants to avoid another permit requirement, if possible, (2) the restriction, closure, and other regulatory provisions of § 13.46 should adequately protect park values, at least for this interim period, (3) the Service would not adopt such a new proposal without additional notice and comment.

Comments on the closure criteria of § 13.46(b) suggested both tightening and expansion of the criteria. The Park Service has retained the proposed closure criteria with only minor, technical changes. In the Service's judgment, the closure and restriction provisions represent the proper balance between protection of park values and allowance of subsistence activities. The Park Service has incorporated minor changes in § 13.46 that underscore the Park Service's intent to provide effective and meaningful notice and hearing in the affected vicinity "and other locations as appropriate."

Subsistence Fishing, Hunting, and Trapping. The Park Service received very few comments on §§ 13.47 and 13.48. AFN and NANA recommended a modification in both sections to clarify that only State laws and regulations consistent with applicable Federal law are incorporated by reference. The Park Service considered this modification unnecessary since the Supremacy Clause of the Constitution (Art. VI) requires consistency with Federal law, and §§ 13.47 and 13.48 require consistency with the provisions of the National Park Service regulations, including Part 13 on National Park System Units in Alaska.

One Alaskan family commented that no new fish camps should be allowed in park areas. This family was concerned, in particular, with the destruction of "a beautiful little bay * * * being destroyed by a type of drift fishing that uses stationary nets * * * (which are set) * * * in front of spawning creeks." The Park Service needs to know more about these situations in order to protect park resources. If subsistence fishing is involved, for example, the Park Service can invoke the closure provisions of § 13.50 in appropriate situations. If recreational fishing is involved, the provisions of §§ 13.21 and 13.30 are applicable.

One Eagle, Alaska resident requested the National Park Service to develop a management system for traplines to freeze "ownership" according to pre-1978 or present patterns. He said that the old trapline system—"where a person live[d] on and look[ed] after his own little pocket of fur"—worked well, but he fears that the Park Service regulations will encourage people beyond park boundaries to enter, take, and leave. For the interim period, the Park Service is hopeful that such factors as the local rural residency test, the prohibition on aircraft use, the applicability of state law, and the pressure of local socio-economic realities will adequately prevent or discourage the rush of opportunistic trappers which this resident fears. For the longer term, if the problem materializes, the local committees, regional councils, park and monument commissions, and State will be able to consider solutions.

Subsistence Use of Timber and Plant Material. One environmental organization commented that the National Park Service should prohibit all cutting of live standing timber in park areas. The Park Service, however, recognizes the cutting of live standing timber for appropriate subsistence uses as part of the subsistence lifestyle which ANILCA protects. *See, e.g.*, ANILCA, section 803. In addition, the Park Service considers subsistence uses by local rural residents an important value of the new park areas. Finally, § 13.49 of the regulations, which provides for the cutting of live standing timber for appropriate subsistence uses, also contains provisions which assure the protection of park purposes.

One such provision is the permit requirement of § 13.49(a)(1). The final regulation makes clear that this permit requirement applies only to cutting of live standing timber of diameter greater than three inches at ground height. For smaller diameter timber, no permit is

required. § 13.49(a)(2). The Park Service made this distinction to allow for customary use of alder and willow, for example, in construction and repair of baskets and fish traps without the necessity of a permit. Several organizations objected to the inclusion of the compatibility test in the permit provision of § 13.49(a)(1). The Park Service has decided to retain the compatibility test, however, in order to protect park area purposes, particulary in areas of intense use, fragile timber resources, or other special circumstances, where the impact can be significant. ANILCA does not prohibit the application of the compatibility test to the cutting of live standing timber. Indeed, the listing of park area purposes in sections 201 and 202 of ANILCA substantiates that the park areas were established for several reasons, and subsistence uses are but one of the values of certain of them. Nevertheless, the Park Service is sensitive to the needs of local rural residents for house logs and firewood. For example, although ANILCA does not specifically limit the closure standards which may be applied to subsistence harvest of plants, the Park Service has decided to apply the same limited closure standards to plant harvest as ANILCA requires for subsistence taking of fish and wildlife (i.e., public safety, administration, continued viability of the resource). *See* ANILCA, section 816(b).

In answer to a question raised by Tanana Chiefs Conference, the word "noncommercial" in § 13.49(b) should not prohibit elderly or ill residents from paying another local rural resident to gather the listed subsistence items for use by such incapacitated persons. Such gathering would be for permissible personal or family use, not for sale or "commercial" use prohibited by § 13.49(b).

One group objected to the definition of "temporarily" contained in § 13.49(c)(1). This definition, which also appears in § 13.50(a), is derived directly from the legislative history on closure to subsistence uses of fish and wildlife. *See*, S. Rep. No. 96–413, *supra*, 277–78; H. Rep. No. 96–97, *supra*, 269. The purpose of the definition is to restrict the length of closures by prohibiting closures of arbitrary duration.

Closure. In response to comments asking for increased notice, local consultation, and hearings elsewhere, the National Park Service has made minor changes in § 13.50 that underscore the Park Service's intent to provide effective and meaningful notice and hearing in the affected vicinity "and other locations as appropriate."

One rural group objected to the "public safety" standard for closure in this section as well as in §§ 13.46 and 13.49 on the grounds that "normally occurring accidents" should not be the reason for closure. The Park Service has not deleted this standard. ANILCA establishes it as one of three closure standards for subsistence uses of fish and wildlife. In its experience, moreover, the Park Service has found "public safety" to be a very important reason for closure. For example, in the case of subsistence hunting, allowing hunting in the immediate vicinity of a well-used hiking trail or camping site at certain times of the year might unnecessarily endanger lives. Or, in the case of snowmobiles, allowing snowmobiling in an area endangered by earthquake or avalanche would similarly risk lives. The closure provisions of §§ 13.46, 13.49, and 13.50 have many procedural and substantive protections intended to insure that the closure is sufficiently justified and well discussed. Local input into these decisions will be further facilitated with the creation and operation of the local committees, regional councils, and park and monument commissions.

Application Procedures. The changes which the National Park Service has made in § 13.51 are similar to the changes made in § 13.31. The Superintendent shall act on an application in most cases within 45 days rather than 60 days as proposed. In response to comments from native organizations, the Park Service extended the time for appealing a denial from 60 to 180 days. Finally, the Park Service has decided to grant a hearing at the Regional Director's level if the applicant requests one.

Section-by-Section Analysis

Subpart A—Public Use and Recreation

Applicability and Scope

The regulations set forth herein apply to all persons using, entering or visiting within the boundaries of park areas in Alaska. These regulations supplement the regulations of Parts 1 through 9 of Title 36 of the Code of Federal Regulations. These Part 1–9 regulations remain applicable except as they are modified herein.

These regulations are divided into three parts as described in § 13.2. Subpart A, Public Use and Recreation, contains regulations that govern activities such as use of aircraft, snowmobiles, and motorboats, carrying of weapons camping, cabin occupancy and other activities related to access or general public use and recreation. These regulations apply to all of the park areas in Alaska, except as indicated in the regulations. They amend the provisions of the general regulations found in 36 CFR, Parts 1 through 9, and are necessary to implement or clarify various provisions of ANILCA.

Subpart B contains regulations that govern subsistence activities within the park areas in Alaska. These regulations apply to all park areas except Kenai Fjords National Park, Katmai National Park, Glacier Bay National Park, Klondike Gold Rush National Historical Park, Sitka National Historical Park, and parts of Denali National Park (the former Mt. McKinley National Park area). The regulations in Subpart B amend the regulations contained in Parts 2 through 9 of 36 CFR and Subpart A of Part 13.

Subpart C contains regulations for individual park areas. These regulations apply to a specific area and may amend the provisions of the general regulations found in 36 CFR, Parts 2 through 9, or Subpart A or B of this Part.

Sections 103(c) and 906(o) of ANILCA generally restrict the applicability of National Park Service regulations to federally owned lands within park area boundaries. Consistent with the statute and the explanatory legislative history, 126 Cong. Rec. H11115 (November 21, 1980) and S15130–15131 (December 1, 1980), § 13.2(e) restricts the applicability of these regulations to "federally owned" lands (defined to mean all land interests held by the Federal government including unconveyed Native selections) within park area boundaries. With the legislative conveyance of 98 million acres of State selections in section 906 of the Act, no unconveyed State selections remain within park areas. These regulations would not apply to activities occurring on State lands. Similarly, these regulations would not apply to activities occurring on Native or any other non-federally owned land interests located inside park area boundaries.

A new § 13.4 has been added stating the approval of information collection requests pursuant to the Paperwork Reduction Act (Pub. L. 96–511; 94 Stat. 2812).

Access Related Provisions

Definitions—The definition of "adequate and feasible access" in § 13.1(a) has been revised to clarify that the inholder determines the desired land use or development (removing the suggestion that the Service determines "reasonable" land uses), and the Service approves reasonable access to meet the desired land use. In addition, instead of defining "adequate and feasible access"

circularly in terms of "access," the § 13.1(a) definition provides that only "personal and vehicular travel" (e.g., roads, trails and landing strips, but not transmission lines and pipelines) fits within the statutory access guarantee, in accordance with the legislative history of § 1110(b). S. Rep. No. *96-413, supra* 248 (1979); H.R. Rep. No. *96-97, Part I,* 96th Cong., 1st Sess. 239-240 (1979). Finally, the § 13.1(a) definition makes it clear that the access provided must be economically practicable, but not necessarily the least costly access alternative.

The term "snowmachine" used in section 1110(a) of ANILCA and § 13.10 of these regulations has been defined in parallel terms to a "snowmobile." No separate definition for the § 13.11 term "motorboat" is included here, since the 36 CFR 3.1 definition is already applicable and comports with legislative intent.

Snowmachines—Section 13.10 of these regulations tracks the ANILCA section 1110(a) language authorizing snowmachine use in park areas for "traditional activities" and "travel to and from villages and homesites," as suggested by several commenters. Upon review, it was determined that the findings required under Executive Order 11644 for the general opening to snowmachine use proposed in draft regulations could not be made at this stage. Consequently, snowmachine use is authorized during periods of adequate snow cover or frozen river conditions only for traditional activities which are still permitted in park areas (e.g., snowmachine use to locate new mining claims or for sport hunting in national parks would not be authorized, because the land use is not permitted), travel to and from villages and homesites, pursuant to an access permit, and as authorized by § 13.46. A definition of adequate snow cover as snow of sufficient depth to protect underlying vegetation and soil from damage has been added.

The Service may broaden snowmachine use privileges in a future rulemaking in compliance with E.O. 11644. Prospective snowmachine users should note that the legislative history of section 1110(a) defines a traditional activity in terms of a use generally occurring in a park area prior to its designation. *See S. Rep. No. 96-413, supra* at 248; *H. Rep. No. 96-97, Part 1, supra* at 239. The Service may attempt to define area-specific traditional activities in subsequent rulemakings.

Motorboats—No changes have been made in § 13.11, which authorizes general motorboat use in park areas. This motorboat section, as well as § 13.12 and § 13.13, expand on the access provided by section 1110(a) of ANILCA.

Nonmotorized surface transportation—In response to public comment, § 13.12 was added to authorize the general use of nonmotorized surface transportation (*e.g.*, dog sleds, horses) in park areas.

Aircraft—Section 13.13 authorizes general fixed wing aircraft use in park areas. Public comments urging that helicopter use be by permit only were adopted.

Off-road vehicles—Section 13.14 establishes the procedures for designating routes and areas for off-road vehicle (ORV) use. While several commenters had urged NPS to open existing ORV trails to ORV use, the Service does not have the resource impact information needed for the ORV determinations under Executive Order 11644. In recognition of public desires for the use of ORVs on existing trails, § 13.14(c) adds a permit procedure for such use in non-wilderness park areas. ORVs by permit are exempted from E.O. 11644 and, thus, this procedure offers the maximum ORV use allowable under current law. *Cf.*, E.O. 11644, (16 U.S.C. § 1131 *et seq.*), 16 U.S.C. 1, 1a-1. Under this procedure, individuals could apply for and receive permits for ORV use on existing trails in non-wilderness park areas after the Superintendent's finding of compatibility with park purposes. Persons desiring the opening of specific ORV trails may petition the Department to initiate rulemaking under 43 CFR 14.6. Until such trail and area openings occur, off-road vehicle use is prohibited except by permit or pursuant to § 13.46.

Access to inholdings—Section 13.15 of these regulations, which implements the ANILCA section 1110(b) guarantee of adequate and feasible access to inholdings, has been revised to make clear that an access permit is required only when the inholder desires an access method that is not authorized by other provisions of these regulations (*e.g.*, an access permit is not required for airplane, motorboat or snowmachine access unless an area has been closed to such uses). The access openings of §§ 13.10-13.13 of these regulations should greatly reduce the number of people requiring access permits.

Section 13.15(b) has been revised to state uniform, minimally burdensome requirements geared to obtaining information on whether the applicant has a valid property or occupancy interest, the location of that interest, the applicant's desired route and method of access, and, as deemed necessary by the Superintendent, information on access alternatives and environmental impacts. Section 13.15(b) continues to guarantee adequate and feasible access, and strives to give the applicant his desired access, unless there would be significant resource conflicts and alternative adequate and feasible access exists. Section 13.15(b) has also been revised to minimize the need for permit renewals in response to public comments.

Section 13.15(c) responds to comments on access requiring permanent improvements on park area lands (*e.g.*, road or bridge construction). It is an interpretive rule on the relationship between ANILCA section 1110(b) access to inholdings and sections 1101-1107 "transportation or utility systems." The revised § 13.15(c) requires that any application for a "transportation or utility system," a term defined in § 1102 of ANILCA, be submitted on a consolidated application form, as required by section 1104 of ANILCA. If the permanent improvement is required for adequate and feasible access to an inholding (*e.g.*, a landing strip or road construction) within the meaning of ANILCA section 1110(b), then the necessary rights for the permanent improvement will be granted following *procedural* compliance with ANILCA section 1104. This procedure requires completion and submission of a relatively simple form.

Following submission, the permanent improvement shall be approved. Conversely, if the permanent improvement is not necessary for section 1110(b) access to inholdings (*e.g.*, requests for powerlines and pipelines, or a request for a four lane highway to a recreational cabin), then both the procedural and substantive provisions of ANILCA sections 1104-1107 will be applicable in determining whether to authorize the permanent improvement.

Section 13.15(d) of these regulations is another interpretive rule to inform the public of the Department's views on the applicability of existing regulations concerning mineral development in park areas. Section 13.15(d)(1) concerns the applicability of 36 CFR Part 9A regulations on 1872 Mining Law Claims, which regulations were promulgated under the Mining in the Parks Act (16 U.S.C. 1901 *et seq.*). The guarantee of adequate and feasible access to valid mining claims under section 1110(b) of ANILCA notwithstanding any other law appears to preempt the 36 CFR 9.3 prerequisite of an approved plan of mining operations prior to receiving access. Consequently, the Department is of the view that 36 CFR 9.3 is no longer applicable in Alaska park areas. However, where the holder of a valid

patented or unpatented mining claim under the 1872 Mining Law within a park area proposes to undertake mining operations, the independent requirements of 36 CFR 9.9, 9.10 still require that a plan of operations be approved before undertaking any operations on the claim, as in all other National Park System units (except for patented mining claims where there is no access across federally owned parklands). Thus, prior to undertaking any mining operations within the meaning of 36 CFR 9.2, 1872 Mining Law claimants must obtain an approved plan of operations.

Section 13.15(d)(2) is an interpretive rule stating the Department's view that the regulations of 36 CFR Part 9B are no longer applicable in Alaska park areas. These regulations concerning the development of non-federal oil and gas rights in parks were premised on the land manager's discretion to restrict access. Section 1110(b) of ANILCA effectively removes this discretion from the land manager. Therefore, 36 CFR Part 9B does not apply to Alaska park areas.

Temporary access—Section 13.16 implements section 1111 of ANILCA on temporary access. The revised § 13.16 adopts commenter suggestions to reduce application information burdens: the final § 13.16 requires the same minimal information required by § 13.15(b). In addition, the revised § 13.16 adopts commenter suggestions to collapse mineral and non-mineral temporary access into one provision. Temporary access is defined as limited, short-term (up to one year) access, which does not require permanent facilities for access, to undeveloped non-federal lands for the purposes of survey, geophysical, exploratory and other temporary uses. Unlike access to inholdings under § 13.15, temporary access can be denied where there would be permanent harm to park area resources.

Cabins and Other Structures—Section 13.17 provides procedures and guidance for those occupying and using existing cabins and those wishing to construct new cabins within park areas in Alaska. Section 1303 of ANILCA provides the National Park Service with the authority to permit the continued use of cabins in Alaska even though the occupants may not hold legal title to these cabins and the lands on which they are located. The degree of privilege afforded an occupant is determined by the date of cabin occupancy.

The first category is comprised of those persons who built or occupied cabins or other structures on unpatented Federal lands prior to December 18, 1973. The occupants may apply for a five (5) year renewable permit pursuant to § 13.17(e)(i). These permits shall be renewed every five (5) years until the death of the last immediate family member of the claimant residing in the cabin or structure under permit. Renewal will occur unless the Superintendent determines, after notice and hearing and on the basis of substantial evidence, that the use under the permit is causing or may cause significant deteriment to the principal purposes for which the park area was established. The Superintendent's decision may be appealed to the Director of the National Park Service, and ultimately to the Director, Office of Hearings and Appeals in the Department of the Interior.

The second category consists of those persons who built or occupied cabins or other structures between December 18, 1973, and December 1, 1978. These occupants may apply for a nontransferable, nonrenewable permit. The permit would be issued for a maximum term of one year. Permits issued under this provision may be extended by the Superintendent for periods up to 1 year when required for equitable and just reason, *i.e.*, where extraordinary circumstances prevent vacating the cabin or structure and removal of all personal property within the original term of the permit.

Section 13.17(d) authorizes the Superintendent to issue a permit for the construction, reconstruction, temporary use, occupancy, and maintenance of new cabins or other structures when it is determined that the use is necessary to reasonably accommodate subsistence uses, or is otherwise authorized by law. This determination will be based on factors such as other public uses, public health and safety, and environmental and resource protection. The provision would implement sections 1315(d) (public use cabins in wilderness areas) and 1316 (*e.g.*, temporary shelters for sport hunting in preserves) of ANILCA as well as providing for the reconstruction of cabins permitted under section 1303 of the Act.

The final provision of this regulation provides for the renewal or continuation of valid leases or permits in effect as of December 2, 1980, for cabins, homesites, or similar structures on federally owned lands. These permits or leases shall be renewed unless a direct threat or a significant impairment to park values will occur. Any such findings must be issued by the Superintendent, following notice and an opportunity for the leaseholder or permittee to respond.

Camping and Picnicking—Section 13.18 allows camping and picnicking within park areas except at those times or locations temporarily or permanently closed or otherwise restricted by the Superintendent. The National Park Service would close an area to camping or picnicking when the Superintendent determines that use of the area has resulted in resource damage or that other management considerations require closure as set forth in Section 13.30.

Weapons, Traps and Nets—Section 13.19 permits the carrying of firearms within park areas in Alaska (except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument, where 36 CFR 2.11 is controlling), except as restricted by the Superintendent pursuant to Section 13.30. The Superintendent would retain the authority to prohibit or restrict the carrying of firearms in those areas and at those times when the potential for injury or loss of life inflicted by dangerous animals is negligible or where necessary to insure public safety. For example, the Superintendent may prohibit the carrying of loaded firearms in areas of concentrated public use.

The regulations distinguish between the carrying of firearms for purposes of personal protection and the carrying of other weapons. Only firearms may be carried by recreational users in park areas. The carrying of nets, traps and other weapons such as spear guns, slingshots and other implements designed to discharge missiles would be prohibited. However, local rural residents authorized to engage in subsistence uses would be permitted to use, possess and carry weapons, traps and nets in accordance with applicable State and Federal law.

In order to provide transient relief for persons crossing park areas, the possession of weapons, traps and nets within or upon a device or animal used for transportation is permitted provided such implements are unloaded and cased or otherwise packed in such a way as to prevent their ready use while in park areas.

Preservation of Natural Features—As revised for the new Alaska park areas, § 13.20 authorizes the use of dead and downed wood for fires within identified park areas, and the personal recreational collection of rocks and minerals (including gold; but not including silver, platinum, gemstones and fossils) by hand methods which do not involve surface disturbance.

Taking of Fish and Wildlife—ANILCA provides for the continuation of sport fishing on all lands

administered by the National Park Service and for the continuation of sport hunting within the national preserves. Consistent with the Act, § 13.21 permits the taking of fish and wildlife in accordance with applicable State and Federal laws, including 36 CFR 2.13, 7.23, 7.44(c) and 7.46(a). (Additional provisions on subsistence hunting, trapping, and fishing are provided in §§ 13.47 and 13.48.) By assimilating State law the National Park Service applies the same approach towards enforcement of fish and game laws that it uses everywhere else in the National Park System where sport hunting is allowed.

Congress was specific in its concern that "[t]he intent is to allow individual Alaskans to continue to operate their own traplines within the preserves * * * [I]t is clearly not the intent of this Act that preserves would be a place where more extensive forms of commercial trapping would be allowed where, for example, the trapping itself becomes a business with employees paid to support the trapping operation." 126 Cong. Rec. H10542 (November 12, 1980). Section 13.21 satisfies that intent by prohibiting trapping operations in which trappers are employees of a commercial trapping enterprise, while allowing individual Alaskans to continue to operate their traplines within national preserves.

Section 13.21(b) also complies with Section 205 of ANILCA which allows the continuation of valid commercial fishing rights and privileges within Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of Wrangell-St. Elias National Preserve, and the Dry Bay area of Glacier Bay National Preserve.

Unattended and Abandoned Property—Section 13.22 allows personal property to be left unattended up to 12 months before it would be deemed abandoned and subject to impoundment. In effect, this accords personal property within park areas a 12-month presumption that it is only temporarily unattended. Personal property may be left for periods of time in excess of twelve months with the prior permission of the Superintendent.

The section provides that the Superintendent may establish limits on the amount and type of personal property that may be left unattended. In addition, the Superintendent is authorized to designate locations where personal property may be left unattended for periods of time to be designated by the posting of appropriate signs or by designating on a map which shall be available for public inspection at the office of the Superintendent.

Additionally, § 13.13 provides that aircraft downed after December 2, 1980, must be removed pursuant to the conditions of a permit issued by the Superintendent unless he/she specifically waives this requirement. This regulation is necessary to provide relief from 36 CFR 2.1, which prohibits leaving any vehicle or other property unattended for longer than 24 hours, and to preserve the values and experience of the park areas.

The National Park Service intends that each instance of a downed aircraft be treated on a case-by-case basis. Where the removal operation would present a significant risk to human life, result in extensive resource damage, or is otherwise impractical or impossible (including any situation in which removal of the aircraft would cause such a severe and significant hardship to the owner as to be economically prohibitive), waiver of removal requirements is appropriate. Factors such as the condition and size of the downed aircraft as well as the relief, elevation and vegetation of the surrounding terrain will be controlling in this analysis. In determining the times and means of removal to be specified in a permit when removal is required, these factors will be equally controlling.

Finally, this section would prohibit an attempt to salvage, remove, or possess a downed aircraft without a permit from the Superintendent. The intent here is to protect the aircraft and, most importantly its valuable and easily removed component parts, from being appropriated without authorization by the owner.

Closure Procedures—Section 13.30 authorizes the Superintendent to close an area or restrict an activity on an emergency, temporary or permanent basis. A determination to close an area or restrict an activity will be based on factors such as public health and safety, resource protection, and subsistence uses.

No closures are provided for by this regulation. It provides for notice and hearing for temporary and permanent closure, and also includes a provision for notice and hearing prior to all closures for snowmobile, aircraft or motorboat use, consistent with section 1110(a) of the Act.

This rulemaking establishes time limits for emergency closures (30 days) and temporary closures (12 months) which cannot be extended.

A final provision of this regulation requires the Superintendent to provide public notice prior to determining whether to open an area to a public use or activity. Upon request, a hearing in the affected vicinity will also be held. Section 13.30(e) adopts commenter suggestions for a hearing in the area affected by a permanent closure. This may include hearings in urban areas in situations in which closures (such as closures to sport hunting) may affect urban residents.

Permits—Section 13.31 consolidates procedures regarding the issuance and denial of permits. The procedures specify to whom an application for a permit must be submitted. The Superintendent is directed to acknowledge the application promptly, and to approve the permit, deny the permit, or request additional information within 45 days unless the Superintendent notifies the applicant of a good cause extension.

The regulations further establish and set forth an administrative appeals system to the NPS Alaska Regional Director. The appeals system was established with a view toward minimizing the requirements imposed upon the applicant during the appeal process, yet establishing a procedure that would fairly meet the concerns of the applicant. Any person whose permit application has been denied by the Superintendent has a right to appeal that denial to the Regional Director within 180 days of permit denial. Section 13.31(b)(2) has been revised to guarantee an applicant the opportunity for a hearing, as suggested in public comments.

Section-by-Section Analysis: Subpart B—Subsistence

Subpart B of the final interim regulations implements the authorization for subsistence uses in specified park areas contained in Title II of ANILCA and the policies and procedures governing subsistence uses contained in Title VIII of the Act.

These final interim regulations for subsistence are necessary for several reasons. First, they relieve restrictions in the otherwise applicable general park regulations for uses and activities integral to the subsistence lifestyle. In certain cases, ANILCA does not specifically relieve these restrictions (*e.g.*, use of nets, seines, traps, and spears in subsistence fishing; cutting of live standing timber for firewood and house logs; carrying of firearms); in other cases, ANILCA allows the uses, but the Park Service's general regulations appear to prohibit them on pain of criminal penalty. Second, the final interim regulations implement certain critical provisions of ANILCA concerning subsistence (*e.g.*, the closure standards and procedures for subsistence uses of fish and wildlife).

and extend the principle of certain of these provisions to subjects not specifically mentioned by ANILCA (*e.g.*, closure standards and procedures for subsistence use of plants). In several cases, these final interim regulations set up the administrative mechanisms for implementing the statutory provisions (*e.g.*, notice provision for closures). Third, the final interim regulations are necessary in order to establish methods for identifying subsistence users (known as "local rural residents" in the regulations) who are authorized to hunt and trap in specified national parks and monuments, and for separating them from sport users who are prohibited from hunting and trapping in all parks and monuments. Section 816 of ANILCA prohibits the taking of wildlife in parks and monuments except as specifically authorized. In ANILCA, the authorization is limited to local residents engaged in subsistence uses in certain park areas. The Act does not, by its terms, prescribe the methods that the Park Service is to use to distinguish subsistence from sport users, though the legislative history for Title II of the Act indicates Congress' intent that methods like those in these final interim regulations be established. S. Rep. No. 96–413, *supra*, 168–171; 126 Cong. Rec. H10540–41 (daily ed. Nov. 12, 1980). As described in detail below, the National Park Service has adopted the following two methods suggested by Congress to ensure that only "local rural residents" engage in subsistence uses in parks and monuments: (1) A system of "resident zones" and "subsistence permits" to identify local rural residents, and (2) a general prohibition on aircraft use for subsistence hunting, trapping, and fishing to separate the sport user from the subsistence user.

The final interim regulations on subsistence are not comprehensive. They do not provide for implementing certain provisions of Title VIII of ANILCA that, in the Park Service's judgment, do not lend themselves to expeditious promulgation. In most cases, these provisions have not previously been the subject of notice and comment. Notable among these statutory provisions are the State regulation opportunity of section 805(d), the Federal monitoring requirement of section 806, the judicial enforcement mechanism of section 807, the subsistence and land use procedures of section 810, and the subsistence research provision of § 812. The National Park Service will consider specific regulations and policies as appropriate for implementing these provisions in the future. It should be emphasized, however, that all parties must comply with these statutory provisions as long as they remain in effect.

Purpose and Policy

Purpose: Section 13.40(a) establishes that, consistent with proper management of fish and wildlife and the purposes for which the park areas were established, the purpose of Subpart B of the regulations is to provide the opportunity for local rural residents engaged in a subsistence way of life to do so pursuant to applicable State and Federal law. ANILCA, sections 101(c); 802(1). The Subpart B regulations are designed to accommodate and protect the unique subsistence relationship of certain local rural people in Alaska with their natural environment. Alaska Native people have been living a subsistence way of life for thousands of years, and certain non-Native rural residents have developed a subsistence way of life in more recent times. Many of these local rural residents have customariiy and traditionally taken the renewable resources which are now within the boundaries of park areas. The resources satisfy both the physical needs of these local rural residents for food, shelter, fuel, clothing, tools, and transportation and their societal needs for cultural identity through skills, lore, and traditions. In light for the cultural and societal importance of the subsistence lifestyle in rural Alaska and its dependence on the renewable resources, therefore, Subpart B implements the Congressional directive to continue the opportunity for subsistence uses within all national preserves and certain national parks and monuments by local rural residents who have (or are a member of a family which has) an established or historical pattern of subsistence uses within such units. As noted in both the Senate and House of Representatives, "[L]ocal rural residents who maintain their primary, permanent residence within such units should have the opportunity to decide for themselves the course, pace, and extent, if any, of their own lifestyle and community evolution." S. Rep. No. 96–413, 96th Cong., 1st Sess. 169 (1979); 126 Cong. Rec. H 10,541 (daily ed. November 12, 1980).

Section 13.40 (b)–(d) sets forth basic policies which ANILCA adopted to guide the activities of the administering agencies. ANILCA, sections 802 (1), (2); 804. First, consistent with sound management principles and the conservation of healthy populations of fish and wildlife, the utilization of park areas is to cause the least adverse impact possible on local rural residents who depend upon subsistence uses of the resources of the public lands in Alaska for their economic and physical well-being and cultural vitality. This statutory policy is implemented throughout the regulations, particularly in the subsistence priority established by § 13.40 (c)–(d) and the limitations on closure of §§ 13.46, 13.49, and 13.50.

Subsistence Priority. The second policy, articulated in § 13.40 (c) and (d), establishes the subsistence priority. Section 13.40(c) makes clear that nonwasteful subsistence uses of fish, wildlife, and other renewable resources by local rural residents are the priority consumptive uses over any other consumptive uses permitted within park areas. ANILCA, section 802(2). If consumptive uses of a fish and wildlife population must be restricted, § 13.40(c) assures that consumptive uses must first be limited to local rural residents engaged in subsistence uses. Section 13.40(d) establishes the three criteria for implementing the subsistence priority among persons already engaged in subsistence uses. *Id.* Section 804. Thus, if restrictions of consumptive uses among local rural residents becomes necessary, § 13.40(d) sets forth the allocation criteria: Customary and direct dependence upon the resource as the mainstay of one's livelihood, local residency, and availability of alternative resources.

Accordingly, the subsistence priority system dictates the following scenario in situations in which a park area's fish and wildlife resources are not sufficiently plentiful for taking by all consumptive users. If consumptive uses must be restricted to assure the continued viability of the resource populations (including the conservation of healthy populations in preserves, and healthy and natural populations in parks and monuments), for example, or to assure local rural residents the continued opportunity to engage in subsistence uses, consumptive uses must first be restricted to local rural residents engaged in subsistence uses. Then, if further restrictions become necessary, the resources must be allocated among the local rural residents. Ultimately, subsistence uses must be limited to local rural residents who have the most customary and direct dependence on the resources as the mainstay of their livelihoods and who have the lease access to alternative resources.

For several reasons, today's final interim regulations merely repeat the three criteria of the subsistence priority set forth in § 804 of ANILCA. The National Park Service anticipates State

regulation implementing the subsistence priority criteria and looks forward to local input on the criteria from the local advisory committees and regional advisory councils of section 805 of ANILCA and the park and park monument commissions of Section 808.

State Regulation. Section 13.40(e) of the regulations recognizes the State of Alaska's authority to regulate the taking of fish and wildlife in park areas as long as such regulation is consistent with applicable Federal law, including the provisions of ANILCA. For example, the Park Service expects the State to continue to regulate seasons and bag limits in the park area. Furthermore, the Park Service anticipates that a State subsistence program, implementing ANILCA's various subsistence mandates, will eventually supersede most Federal regulation of subsistence.

Limitations. In addition to establishing the purpose and policies of the Subpart B regulations, § 13.40 also establishes the limitations of the purpose and policies. According to § 13.40(a), the subsistence opportunity may only be provided in a manner and degree consistent with the management of fish and wildlife in accordance with recognized scientific principles and with the purposes for which each park area was established, designated, or expanded by ANILCA. According to § 13.40(b), the utilization of the public lands is to cause the least adverse impact possible on local rural residents, but this policy is limited by the requirement that it be consistent with sound management principles and the conservation of healthy populations of fish and wildlife. And § 13.40(c) establishes the basic limitation of all the provisions of the Subpart B regulations: Subsistence uses of fish and wildlife populations must be appropriately regulated so as to assure conservation of healthy populations within national preserves, and conservation of natural and healthy populations within national parks and monuments. Congress provided the following guidelines on the implementation of this concept:

> The Committee intends the phrase "the conservation of healthy populations of fish and wildlife" to mean the maintenance of fish and wildlife resources and their habitats in a condition which assures stable and continuing natural populations and species mix of plants and animals in relation to their ecosystems, including recognition that local rural residents engaged in subsistence uses may be a natural part of that ecosystem; minimize the likelihood of irreversible or long-term adverse effects upon such populations and species; and ensures maximum practicable diversity of options for the future. The greater the ignorance of the resource parameters, particularly of the ability and capacity a population or species to respond to changes in its ecosystem, the greater the safety factor must be. Thus, in order to insure that subsistence uses are compatible with the maintenance of healthy populations of fish and wildlife, it must be recognized that the likelihood of irreversible or long-term adverse effects to a population or species must be proportional to the magnitude of the risks caused by a proposed use of such population or species.
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> The Committee recognizes that the management policies and legal authorities of the National Park System and the National Wildlife Refuge System may require different interpretations and application of the "healthy population" concept consistent with the management objectives of each system. Accordingly, the Committee recognizes that the policies and legal authorities of the managing agencies will determine the nature and degree of management programs affecting ecological relationships, population dynamics, and the manipulation of the components of the ecosystem.
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> The reference to "natural and healthy populations" with respect to national parks and monuments recognizes that the management policies of those units may entail methods of resource and habitat protection different from methods appropriate for other types of conservation system units. S. Rep. No. 96–413, *supra*, 233, 235.
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> In authorizing subsistence uses within National Parks, Monuments, Preserves, and National Recreational Areas, it is the intent of the Committee that certain traditional National Park Service management values be maintained. It is contrary to the National Park Service concept to manipulate habitat or populations to achieve maximum utilization of natural resources. Rather, the National Park System concept requires implementation of management policies which strive to maintain the natural abundance, behavior, diversity, and ecological integrity of native animals as part of their ecosystem, and the Committee intends that that concept be maintained. The National Park Service recognizes, and the Committee agrees, that subsistence uses by local rural residents have been, and are now, a natural part of the ecosystem serving as a primary consumer in the natural food chain. The Committee expects the National Park Service to take appropriate steps when necessary to insure that consumptive uses of fish and wildlife populations within National Park Service units not be allowed to adversely disrupt the natural balance which has been maintained for thousands of years. Accordingly, the Committee does not expect the National Park Service to engage in habitat manipulation or control of other species for the purpose of maintaining subsistence uses within National Park System units. *Id.* at 171.

Applicability

ANILCA mandates that subsistence uses by local rural residents be allowed in all national preserves in Alaska and, where permitted by ANILCA, in national parks and monuments in Alaska. ANILCA, § 203. Accordingly, § 13.41, the applicability section, states that local rural residents may engage in subsistence uses pursuant to the regulations in Subpart B (1) in national preserves (ANILCA, section 203); (2) throughout Cape Krusenstern National Monument and Kobuk Valley National Park (*id.*, section 201(3) and (6)), and (3) where such uses are traditional (as may be further designated for each park or monument in Subpart C) in Aniakchak National Monument, Gates of the Arctic National Park, Lake Clark National Park, Wrangell-St. Elias National Park, and the December 2, 1980, addition to the newly named Denali National Park (*id.*, sections 201 (1), (4), (7), (9); 202(3)).

With respect to the last category of park areas—Aniakchak, Gates of the Arctic, Lake Clark, Wrangell-St. Elias, and the Denali addition—the statute offers no further specifics as to the geographical areas where subsistence uses are traditional. The legislative history offers some guidance. For Gates of the Arctic, for example, the Senate report states as follows:

> * * * [S]ubsistence uses of some areas of the park may be essential periodically or continuously for the continued survival of the local people. The Committee * * * feels * * * that the subsistence patterns of the park are well known and can be identified. The Committee noted that the following drainages within the park have apparently been used for subsistence hunting: Etivluk River, Outwash Creek, Kurupa River, Oolamnagavik River, Killik River (and all its tributaries), Okpikruat River, Alapah Creek, Kayak Creek, Erratic Creek, Naushuk River, Kuhsuman Creek, Anaktuvuk River, Ernie Creek and the Itkillik River. It is not the intent of the committee that these drainages be considered the only places where subsistence can occur. But it is the Committee's intent to restrict subsistence hunting in the park to traditional use areas * * * S. Rep. No. 96–413, *supra*, 147; *see also*, 126 Cong. Rec. H10535 (daily ed. Nov. 12, 1980).

For the other specified areas, the legislative history indicates, at most, that subsistence uses may occur "where such uses have been traditional," "to the extent they (*sic*) now take place," "where they now occur," "at their present level." 126 Cong. Rec. H 10533, 10538, 10540. Since the legislative guidance on where subsistence uses are traditional in the five specified areas is incomplete, the National Park Service had decided not to designate traditional "subsistence hunting zones" for these five areas in this interim rulemaking. Rather, the Park Service looks forward to developing additional information and to receiving public comment on this

issue through research, further rulemaking endeavors, and, most importantly, advice from the local committees and regional councils of section 805 of ANILCA and from the park and monument commissions of section 808. In the meantime, the National Park Service believes that local rural residents should comply with the Congressional intent of § 13.41(c) of the proposed regulations by not hunting in any areas of Aniakchak National Monument, Gates of the Arctic National Park, Lake Clark National Park, Wrangell-St. Elias National Park, or the Denali Park addition where subsistence hunting has not, in recent history, occurred.

Definitions

Local rural resident and resident zones. Throughout the regulations, the National Park Service identifies those people who may engage in subsistence uses where authorized in park areas as "local rural residents." This term derives from the term "local residents" in Title II of ANILCA and the term "rural Alaska residents" in the definition of "subsistence uses" in Title VIII. Title II authorizes the opportunity for continued "subsistence uses by *local residents* * * * in national preserves and, where specifically permitted by this Act, in national monuments and parks." ANILCA, section 203 (emphasis added); *see also*, section 201 (1), (3), (4), (6), (7), (9); 202(3). The relationship between this language in Title II and Title VIII was described as follows in the Congressional Record:

> Since the definition of "subsistence uses" in § 803 limits such uses to "rural Alaska residents," a reading of Title VIII and Title II * * * together make it clear that the policy throughout is that only local rural residents are by statute provided the opportunity to engage in subsistence uses in areas of the National Park System * * * 126 Cong. Rec. S15129 (daily ed. December 1, 1980).

Section 13.42(a) defines "local rural residents" with respect to national parks and monuments as persons who either live in designated "resident zones" (*see* § 13.43 and its explanation, below) or hold a "subsistence permit" (*see* § 13.44 and its explanation, below). In brief, "resident zones" are designated, and "subsistence permits" will be issued, on the basis of customary and traditional utilization of park or monument lands for subsistence uses without use of aircraft as a means of access. In the case of "resident zones," the National Park Service applies this criterion to "significant concentrations" of people; in the case of "subsistence permits" for people who live outside resident zones, the Superintendent will apply this criterion to individual applicants.

The definition of "local rural resident" makes clear that, for a person to qualify by virtue of residence in a resident zone, that person must have his or her primary, permanent home within the resident zone, and whenever absent from this home, have the intention of returning to it. The National Park Service will examine factors such as tax returns, hunting, fishing, and driver's licenses, voter registration, and any other evidence appropriate to establish the location of a person's primary, permanent home. In practice, this residence concept should not exclude a person from qualifying as a local rural resident merely because of a temporary absence for military duty or limited-term employment, for example. This concept does not impose a durational residency requirement.

Subsistence uses. The definition of "subsistence uses" tracks the language of section 803 of ANILCA with one modification: as explained below, the regulatory definition offers some guidance on the meaning of the term "customary trade," which the statute leaves undefined.

The term "subsistence uses" means the customary and traditional uses by rural Alaska residents of fish, wildlife, and other wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles from the nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade. This definition uses several terms which require further explanation.

To begin with, the definition uses the phrase "customary and traditional" to modify the term "uses" in order to emphasize that Native and non-Native subsistence uses

> have played a long established and important role in the economy and culture of the community and * * * (that) such uses incorporate beliefs and customs which have been handed down by word of mouth or example from generation to generation. S. Rep. No. 96-413, *supra*, 269; H. Rep. No. 96-97, 96th Cong., 1st Sess. 280 (1979).

Next, the definition limits subsistence uses to uses "by rural Alaska residents." Clearly, this limitation excludes residents of Ketchikan, Juneau, Anchorage, and Fairbanks from engaging in authorized "subsistence uses." *See* S. Rep. No. 96-413, *supra*, 233. On the other hand, if they are included within a "resident zone" or obtain a "subsistence permit," residents of "rural" Alaska—including communities such as Dillingham, Bethel, Nome, Kotzebue, Barrow, and other villages throughout the State (as long as such communities remain "rural")—may engage in "subsistence uses." *Id.* It is important to emphasize that, in national park or monument areas, only "local rural residents" who permanently reside in a resident zone or have a subsistence permit may engage in subsistence uses. *See* 126 Cong. Rec. S15129 (daily ed. December 1, 1980).

The term "family" is defined to include any person living within a local rural resident's household on a permanent basis as well as those persons living outside the household who are related by blood, marriage, or adoption (legal or equitable). The definition of "family" recognizes extended family patterns common in the subsistence culture of Alaska. This definition of "family" is to be distinguished from the more limited definition used in § 13.43 on determination of resident zones and in § 13.44 on subsistence permits.

The definition of "subsistence uses" includes the making and selling of handicraft articles from the nonedible byproducts only of fish and wildlife resources taken for personal or family consumption. Accordingly, the definition covers such commercial activities only if the edible portions of the resource have been used for personal or family consumption. The "subsistence uses" definition also includes "barter" for personal or family consumption in recognition that a genuine subsistence lifestyle includes certain foodstuffs and other items which may be available through a non-cash exchange. Thus, barter of subsistence resources of a limited and noncommercial nature falls within the meaning of "subsistence uses."

Finally, the definition of "customary trade" adopted today recognizes that the subsistence lifestyle may also include limited involvement in the cash economy through the exchange of furs and, in specified circumstances, other items not covered by the statutory language of the subsistence uses definition. With respect to the exchange of furs for cash, trapping furbearers is an integral and longstanding part of the subsistence lifestyle in many regions of Alaska. While some of the furs are utilized for personal or family use, it is recognized that a portion of the furs ultimately become items for sale on the commercial market. The cash remuneration, in turn, helps to provide the basic tools and supplies associated with trapping and the subsistence

lifestyle of which trapping is a part. For example, local rural residents may engage in trapping to obtain the cash required for necessary store-bought supplies such as gasoline and ammunition. The allowance of cash interchange related to fur trading is intended to provide continuity to the traditional and customary harvest of furbearers by those who are authorized to engage in subsistence uses within parks and monuments.

As with fur trading, so, too, the making and selling of handicraft articles out of plant material is a customary and traditional part of the subsistence lifestyle in certain places. Comments on the proposed interim regulations pointed out that the statutory definition of "subsistence uses" as well as the proposed regulatory definition failed to authorize this trade. Consequently, today's final interim regulations include special provisions in Subpart C to allow for these activities where they are known to occur. At this time, the definition of "customary trade" includes, in addition to the exchange of furs for cash, the selling of handicraft articles made from plant materials (e.g., birch bark baskets) taken by local rural residents in Kobuk Valley National Park and in the southwestern preserve unit of Gates of the Arctic National Park and Preserve. *See* §§ 13.64(a)(3), 13.69(a)(2).

It should be recognized, that the definition of "customary trade" was intended by Congress to be narrow:

> The Committee does not intend that "customary trade" be construed to permit the establishment of significant commercial enterprises under the guise of "subsistence uses." The Committee expects the Secretary and the State to closely monitor the "customary trade" component of the definition and promulgate regulations consistent with the intent of the subsistence title. S. Rep. No. 96–413, *supra*, 234.

Accordingly, this provision is not intended to allow trapping or any other customary trade practice within parks and monuments to be or become a solely or predominantly commercial enterprise beyond its traditional role as part of the subsistence regimen.

Determination of Resident Zones: By definition, the "resident zone" for each national park or monument encompasses the area and communities within the park or monument boundaries as well as certain areas and communities just outside the boundaries where, in the judgment of the National Park Service, significant concentrations of subsistence users of the park or monumnent reside. Section 13.43(a). This definition reflects a change from the proposed definition insofar as it eliminates resident zones for park preserves. The Park Service believes that the need to identify local rural residents in preserves is not as pressing as in parks and monuments since sport hunting is allowed in preserves. For the interim regulations period, moreover, the Service believes that its other tools for regulating subsistence fishing and use of timber in preserves—such as enforcement of State subsistence fishing law and retention of the permit requirement for cutting timber—will be adequate to protect park resources and values.

The areas and communities outside the boundaries for the new national parks and monuments listed in Subpart C of the regulations are as follows:

(a) Aniachak National Monument: Chignik, Chignik Lagoon, Chignik Lake, Meshik, Port Heiden (§ 13.60(a)(1));
(b) Cape Krusenstern National Monument: Kivalina, Kotzebue, Noatak (§ 13.62(a)(1));
(c) Denali National Park: Cantwell, Minchumina, Nikolai, Telida (§ 13.63(a)(1));
(d) Gates of the Arctic National Park: Alatna, Allakaket, Ambler, Anaktuvuk Pass, Bettles/Evansville, Hughes, Kobuk, Nuiqsut Shungnak, Wiseman (§ 13.64(a)(1));
(e) Kobuk Valley National Park: Ambler, Kiana, Kobuk, Kotzebue, Noorvik, Selawik, Shungnak (§ 13.69(a)(1));
(f) Lake Clark National Park: Iliamna, Lime Village, Nondalton, Pedro Bay, Port Alsworth, Newhalen (§ 13.70(a)(1));
(g) Wrangell-St. Elias National Park: Chisana, Chistochina, Chitina, Copper Center, Gakona, Gakona Junction, Glennallen, Gulkana, Kenny Lake, Lower Tonsina, McCarthy, Mentasta Lake, Nabesna, Slana, Tazlina, Tok, Tonsina, Yakutat (§ 13.73(a)(1)).

Under the final interim regulations, anyone who permanently resides within the national park or monument boundaries or in one of the communities listed above may engage in subsistence uses in the appropriate national park or monument. In other words, persons who live in the resident zone for Kobuk Valley National Park, for example, may engage in subsistence uses in that national park, but in no other national park or monument without a permit (unless such person's community is also listed in the resident zone for another national park or monument—*e.g.*, Shungnak is listed for both Kobuk Valley National Park and Gates of the Arctic National Park).

As the above list of communities reveals, the National Park Service has adopted a more liberal designation of resident zones in these final interim regulations than in the proposed regulations. This liberal designation complies with Congress' intent that the Park Service (1) devise a system of resident zones as the primary mechanism for identifying local rural residents, and (2) avoid a subsistence permit system to the extent possible. *See* S. Rep. No. 96–413, *supra*, 170–71; 126 Cong. Rec. at H10541. The Park Service has retained other regulatory mechanisms, such as the prohibition on aircraft use for subsistence purposes, to prevent abuse of the subsistence program.

In determining the list of communities outside the boundaries for each national park or monument, the National Park Service reviewed several documents, including the studies of subsistence communities prepared for the Park Service, the 1974 Environmental Impact Statement on the Alaska National Interest Lands, and the 1978 Environmental Supplement on Alternative Administrative Actions. The National Park Service also reviewed information from several of its employees who have studied the subsistence lifestyle throughout the State and, in some cases, have lived "in the bush" for years. In addition, the Park Service reviewed comments submitted by State and local people knowledgeable about the subsistence lifestyle. The communities listed in Subpart C derive from the subsistence field research conducted by independent, qualified investigators on contract to the Park Service, from observations by NPS planning and field personnel, and from the comments and suggestions of State authorities and knowledgeable local sources. The resultant list is meant to include communities where "significant concentrations" of the inhabitants qualify as local rural residents who, without using aircraft as a means of access for purposes of taking fish and wildlife for subsistence uses, have customarily and traditionally engaged in subsistence within the park area. The concentrations may be "significant" in relative quantity (*e.g.*, predominant numbers) or quality (*e.g.*, cultural vitality, community leadership and influence).

It should be noted that a community or area may be added to a resident zone, or deleted from a resident zone, as circumstances change or information is developed that indicates that such community does or does not have the concentrations of local rural residents necessary for inclusion in the resident zone. Section 13.43(b). The Park Service recognizes that additional information for more precise designation of resident zones will probably be developed in the future by NPS, the State Department of Fish and Game Subsistence Division, local committees, regional councils, and

park and monument commissions (ANILCA, sections 805 and 808).

The National Park Service recognizes that certain communities outside the resident zones contain persons who can qualify as local rural residents. For any communities or areas not included in a resident zone, the National Park Service encourages the residents who have customarily and traditionally used national park area resources without using an aircraft for access to apply for a "subsistence permit."

Subsistence Permits and Application Procedures for Subsistence Permits: Under the final interim regulations, any person who permanently resides outside a resident zone must obtain a "subsistence permit" in order to engage in subsistence uses of national park or monument resources. The availability of subsistence permits assures that subsistence users whose communities are not included in a resident zone for whatever reason may nevertheless have the opportunity to engage in subsistence uses in national park or monument areas. Section 13.44.

The availability of subsistence permits is part of the system contemplated by ANILCA for identifying "local rural residents" who are authorized to engage in subsistence uses in national parks and monuments. The subsistence permit is system necessary to ensure the fairness of a regulatory system which seeks primarily—by means of resident zones—to avoid the necessity of permits in allowing subsistence uses by local rural residents. Thus, the subsistence permit system is an integral part of the resident zone system. As a corollary, it should be noted that the Park Service's decision to limit the applicability of the resident zone system to national parks and monuments (*i.e.*, not preserves) necessitated a similar limitation of the applicability of the subsistence permit system. As another corollary, the Service's decision to expand the resident zone designations, thereby encompassing more subsistence users within the zones, should reduce the number of subsistence users who must apply for a permit.

The National Park Service has made efforts to eliminate all unnecessary burdens from the application process while still providing procedural protections to assure fair and reasonable decisionmaking on the permit applications. Section 13.51. Under the regulations, the application process at the Superintendent's level is simple. The applicant must demonstrate to the Superintendent, preferably on a written form but otherwise by oral presentation, either of the following:

(1) He or she has (or is a member of a family which has) customarily and traditionally engaged in subsistence uses within a national park or monument without using aircraft as a means of access for purposes of taking fish or wildlife (§ 13.44(a)(1)); or (2) he or she qualifies as a "local rural resident" who may engage in subsistence uses in another national park or monument, and his or her subsistence lifestyle involves a pattern of subsistence uses between the other national park or monument and the park or monument for which the applicant now seeks a permit (§ 13.44(a)(2)).

Section 13.44(c) makes clear that, for purposes of § 13.44(a)(1), the term "family" is limited to persons living within a rural resident's household on a permanent basis. *See, also,* § 13.43(c). Unlike the definition of "family" in § 13.42(c) ("subsistence uses" definition), family members who live in cities or far from the park area would not qualify for the benefits of § 13.44. The intent of this definition is to allow children of subsistence users, who may not have a personal history of engaging in subsistence uses, to qualify for a permit.

The National Park Service believes that the Superintendent will be able to issue subsistence permits quickly and routinely in cases of genuine subsistence users. Section 13.51(a) requires the Superintendent to grant or deny the application in a timely manner not to exceed forty-five days from receipt of the completed application unless, in extraordinarly cases, the Superintendent can show good cause for failing to meet the time deadline. The Superintendent shall explain any denial in writing and promptly forward a copy to the applicant.

Should the Superintendent deny the permit, the applicant who wishes to have his or her application reconsidered must so inform the Alaska Regional Director by letter, telephone, or any other means of communication within 180 days (except for good cause shown) of the Superintendent's issuing the denial. The permit applicant shall present the Alaska Regional Director with (1) any additional information demonstrating that the applicant qualifies for a permit, (2) the basis for the applicant's disagreement with the Superintendent's decision, and (3) a statement as to whether or not the applicant requests an informal hearing before the Regional Director. The Alaska Regional Director shall grant a hearing if the applicant requests it.

To accommodate the permit applicants who would be inconvenienced by travelling to Anchorage for a hearing, the Alaska Regional Director will periodically "ride circuit," scheduling hearings throughout the State.

The Alaska Regional Director shall decide to affirm, reverse or modify the Superintendent's denial within a reasonable period of time, shall explain his decision in writing, and shall promptly forward a copy to the applicant. This decision shall constitute final action by the Department of the Interior. In accordance with applicable law, the permit applicant may, of course, seek judicial review of a denial on reconsideration.

The regulations published today recognize that subsistence users who do not live in resident zones but nevertheless depend on national park or monument resources must be able to engage in subsistence uses in national park or monument areas immediately. Consequently, § 13.44(b) allows such persons who would otherwise qualify for a subsistence permit (*see* § 13.44(a)) to engage in subsistence uses in a national park or monument without a permit until August 1, 1981. However, it should be emphasized that such persons should begin the application process for a subsistence permit as soon as possible since a subsistence permit will be required as of August 1, 1981. The Park Service encourages those who are able to submit their application in writing.

Prohibition of Aircraft Use: Section 13.45 of the Subpart B regulations generally prohibits the use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish or wildlife for subsistence uses within the national park or monument.

The Subpart B regulations do not prohibit use of aircraft for subsistence uses in national preserves.

It is the National Park Service's determination, supported by numerous comments, by available research on the subsistence lifestyle, and by the legislative history of Title II of ANILCA, that local rural residents who have customarily and traditionally engaged in subsistence uses of park and monument resources do not, in most cases, use aircraft for access for subsistence hunting, trapping, and fishing. What cash these local rural residents acquire is used to purchase necessities not otherwise supplied by subsistence uses. Certainly, as a general rule, the expense of aircraft use greatly exceeds the ability of the local rural resident to pay for it. On the other hand, aircraft is commonly used by sport hunters who are now prohibited from hunting in park and monument areas. In this respect, the prohibition of aircraft use for subsistence activities reinforces the ban

on sport hunting in park and monument areas and assists the National Park Service in distinguishing sport from subsistence hunters.

The Subpart C regulations for individual park areas, however, afford the Park Service flexibility to make exceptions to the general prohibition. For any park or monument, the Park Service may designate "exempted communities" whose local rural residents may obtain individual permits to use aircraft for subsistence hunting, trapping, and fishing (§ 13.45(b)). The Superintendent will attempt to develop a relatively standard permit for the entire community, subject to special individual terms, conditions, and signature for each community resident who wishes to use aircraft. At this time, the National Park Service is designating two communities as "exempted communities," Anaktuvuk Pass in Gates of the Arctic National Park and Yakutat in Wrangell-St. Elias National Park (for access to Malaspina Forelands Area only), whose local rural residents presently rely on aircraft for access to their customary and traditional areas of harvest in the park. The people of Anaktuvuk Pass, isolated, remote, surrounded by difficult terrain, are far removed from the wildlife populations whose harvest sustains them; moreover, they do not have adequate and available alternative resources populations for sustenance. Similarly, residents of Yakutat have customarily used aircraft for access to the Malaspina Forelands in the Wrangell-St. Elias area for subsistence purposes, since traveling by boat, the only other possible means of transportation, can be extremely dangerous due to the violent storms that frequent the Gulf of Alaska. S. Rep. 96-413, *supra*, 169; 126 Cong. Rec. H10541 (daily ed. Nov. 12, 1980). As Congress noted,

> Although there may be similar situations in other areas of Alaska in which aircraft use for subsistence hunting may be appropriate and should be permitted to continue, the Committee believes that these types of situations are the exception rather than the rule and that only rarely should aircraft use for subsistence hunting purposes be permitted within national parks and monuments. It is not the intent of the Committee to invite additional aircraft use. S. Rep. No. 96-413, *supra*, 169; *see, also*, 126 Cong. Rec. H10541 ("It is not the intent to invite additional aircraft use, or new or expanded uses in parks and monuments where such uses have not traditionally and regularly occurred.")

The National Park Service has also included in today's regulations the opportunity for any local rural resident aggrieved by the aircraft prohibition to seek an individual exception to the prohibition on aircraft pursuant to the procedures of § 13.51. Section 13.45(b)(2). It bears noting that this opportunity is available only to local rural residents, *i.e.*, persons who live in a resident zone or have a subsistence permit. The Superintendent may grant the exception if he or she determines that the applicant has demonstrated an extraordinary situation where no reasonable alternative to aircraft use exists because of the location of the subsistence resources depended upon and the difficulty of surface transportation to these resources, or other emergency situation (*e.g.*, unusual and unforeseeable acts of nature).

The permits issued pursuant to § 13.45(b) (1) and (2) may contain terms and conditions which limit the aircraft use as to area, time of operation, type of aircraft, duration of the permit, and any other factor necessary to restrict the permit to the limited and exceptional purposes it is meant to fulfill.

Section 13.45(c) makes clear that the prohibition on aircraft use is limited. It does not extend to any legal activity other than access for purposes of subsistence hunting, trapping, and fishing. Thus, a local rural resident may, for example, use aircraft in parks and monuments to carry supplies to a cabin, to visit another village, or even to gather berries. Although the National Park Service believes that such use of aircraft in the subsistence culture is rare for the reasons stated above, the Park Service does not have the same enforcement concerns for these activities as it does for the taking of fish and wildlife.

Use of Snowmobiles, Motorboats, Dog Teams, and Other Means of Surface Transportation: In furtherance of section 811 of ANILCA, § 13.46 provides local rural residents engaged in subsistence uses reasonable access to the subsistence resources on which they depend. With respect to local rural residents who are engaged in subsistence hunting, fishing, and gathering activities within the park areas, this regulation liberalizes the provisions of Subpart A on snowmobiles, motorboats, dog teams and other nonmotorized surface transportation (*e.g.*, saddle horses), and certain off-road vehicles. All routes and areas are open to subsistence use of these vehicles except as specifically restricted or closed. The Superintendent will implement such closures or restrictions on the basis of criteria which are more limited than the criteria for closure to general recreational use. Basically, in order to impose a restriction, the Superintendent must determine that the use in question is causing or is likely to cause an adverse impact on public health or safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or the purposes for which the park area was established. The Superintendent will arrange notice and public participation concerning closure proposals in order to involve those affected to the fullest extent possible in the decisionmaking.

It should be noted that the types of access vehicles covered by § 13.46 include "means of surface transportation traditionally employed by local rural residents engaged in subsistence uses." The limitations of this phrase, if any, will be addressed as appropriate in future rulemaking efforts.

Under § 13.46, any person operating motorboats, dog teams, snowmobiles, and other means of surface transportation must comply with applicable State and Federal laws governing such operation and must avoid causing waste or damage to fish, wildlife, terrain, or other values of the park area. In addition, consistent with State law, the vehicle operator may not use a motorized vehicle so as to herd, harass, haze, or drive wildlife for hunting or any other purpose.

At all times when not engaged in subsistence uses, local rural residents may use snowmobiles, motorboats, and other means of surface transportation in accordance with the appropriate Subpart A regulations. For example, local rural residents engaged in recreational uses of snowmobiles, motorboats, dog teams, and other means of surface transportation must comply with the provisions of §§ 13.10, 13.11, 13.12, and 13.14, respectively, and local rural residents seeking otherwise-closed access to inholdings or temporary access must comply with the provisions of §§ 13.15 and 13.16, respectively.

Subsistence Fishing: Local rural residents may, of course, engage in fishing in park areas in compliance with applicable State and Federal law. In addition, in § 13.47 of the regulations, the National Park Service has relaxed its general public regulations to allow, in park areas where subsistence uses are authorized, the customary and traditional use of nets, seines, traps, or spears by local rural residents to the extent permitted by State law. *See* § 13.41 (Applicability). Section 13.50, explained below, governs closures to fishing for subsistence purposes.

Subsistence Hunting and Trapping: Although all national parks and monuments in Alaska are closed to sport hunting and to trapping, many are

open, in whole or part, to hunting and trapping by local rural residents engaged in subsistence uses. ANILCA, sections 816; 201 (1), (3), (4), (6), (7), (9); 202(3); *see also*, § 13.41 (Applicability). Therefore, only local rural residents may engage in hunting and trapping where authorized in national parks and monuments. Of course, national preserves are open to both sport and subsistence hunting as well as trapping, unless the Superintendent has closed a preserve area to sport taking pursuant to § 13.30 of Subpart A or to subsistence taking pursuant to § 13.50 of Subpart B. As with sport users, local rural residents engaged in subsistence hunting or trapping must comply with applicable State law governing hunting and trapping, *e.g.*, bag limits, safety requirements, seasons and hours (§ 13.48). With respect to trapline cabins, § 13.17(c) provides for their construction, reconstruction, temporary use, occupancy, and maintenance pursuant to a permit. In addition, § 13.17 (b) and (d) provides for existing cabin use and occupancy by persons with a possessory interest or right of occupancy in the cabin.

Subsistence Use of Timber and Plant Material: Section 13.49(a) relaxes the general public use regulations by allowing local rural residents in park areas where subsistence uses are allowed to obtain a permit to cut standing live timber of greater than three inches diameter at ground height for subsistence needs such as shelter or fuel. *See* § 13.41 (Applicability). Before issuing a permit, the Superintendent must determine that the proposed cutting is compatible with the purposes for which the park area was established. Furthermore, the Superintendent will include in the permit any stipulations deemed necessary to protect the resources of the park area. No permit is required for cutting live standing timber smaller than three inches diameter for subsistence uses. Thus, for example, local rural residents need not obtain a permit to cut small alder or willow branches to make baskets or fish traps.

Section 13.49(b) makes clear that local rural residents do not need a permit to gather plant materials for subsistence uses, or to gather dead or downed timber for firewood for personal, not commercial, use.

Section 13.49(c) sets forth the standards and procedures for closing a park area to the subsistence uses of a particular plant population. Although not required by ANILCA, the National Park Service has decided to apply similar closure provisions for subsistence uses of plants as the Act requires for subsistence uses of fish and wildlife.

As discussed below in the latter context, the closure standards are limited, and the closure procedures involve significant public participation, in order to protect the affected local rural residents who depend on the resources.

Closure to Subsistence Uses of Fish and Wildlife: According to section 816 of ANILCA and § 13.50 of the Subpart B regulations, the Superintendent of each park area has the power to close or restrict any part or all of a park area to subsistence uses of a particular fish or wildlife population only temporarily and only if necessary "for reasons of public safety, administration, or to assure the continued viability of such population." To implement Congress' intent, § 13.50 provides protective standards, time limitations, and notice requirements for closures to subsistence taking of fish and wildlife.

With respect to the standards for closure, the Act lists only three: Public safety, administration, and for assurance of the continued viability of a fish and wildlife population. No closure for purposes of administration, moreover, may be made prior to notice and hearing in the vicinity of the closure. The public safety standard clearly allows the Superintendent to act in situations which threaten public health and welfare. For example, the Superintendent may prohibit subsistence hunting and trapping for reasons of public safety in specified areas surrounding a public campground, roadway, or hiking trail. The fish or wildlife viability standard allows the Superintendent to act for purposes of maintaining resource populations upon which local rural residents rely at levels adequately above the threatened level. As Congress stated, "it is not the intent * * * that actual depletion of a population or an emergency exist before a closure under this section may be justified." S. Rep. 96–413, *supra*, 278; H. Rep. No. 96–97, *supra*, 289. Moreover, as stated in section 815 of ANILCA and § 13.40(e) of the regulations and explained previously, the subsistence provisions are not to be construed as permitting a level of subsistence use of fish and wildlife within national preserves to be inconsistent with the conservation of healthy populations, and within national parks and monuments to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife. The administration standard is potentially the broadest of the three closure standards, though "recognition of the importance of subsistence activities to most (local) rural residents requires that this authority be utilized narrowly and with consistent restraint." *Id.* Guided by this intent, the Superintendent can invoke the administration standard to protect the purposes and values of the park areas and otherwise to manage the park areas prudently. The limitation of section 815 of the Act and § 13.40(e) of the regulations are also relevant to this closure standard.

Closures shall last only so long as reasonably necessary to achieve the purposes of the closure. In the case of closing an area around a hiking trail for reasons of public safety, for example, the closure

> should remain in effect only so long as reasonably necessary to provide for the public safety during normal periods of consistent public use, and only apply to the minimum portion of the public lands reasonably necessary to achieve this purpose. S. Rep. No. 96–413, *supra*, 277–78; H. Rep. No. 96–97, *supra*, 289.

Thus, closures may be seasonal in nature, for example, if warranted by the situation.

In the normal case, a closure must be preceded by consultation with the State and adequate notice and informal public hearing in the vicinity of the closure and other locations as appropriate. In an emergency situation, the Superintendent may immediately close the area for a period not to exceed sixty days. The Superintendent may extend an emergency closure only if he or she establishes, after notice and informal public hearing in the vicinity and other locations as appropriate, that the extension is justified under the applicable closure standards.

Finally, § 13.50(c) provides thorough notice procedures designed to inform as many local rural residents as possible about any closures which may affect them.

Summary of 36 CFR Parts 1–9 Provisions Superseded by or Still Applicable After This Rulemaking

Several commenters had requested that the Service provide an unofficial listing of the 36 CFR Parts 1–9 regulations (ordinarily applicable to all National Park System Units) which have either been superseded by or are still effective after this Alaska park rulemaking. In general, the superseded regulations for Alaska park areas include 36 CFR 2.1 (superseded by § 13.22 except for Klondike Gold Rush National Historical Park and Sitka National Historical Park); 2.2(a) (superseded by § 13.13); 2.5(a), (b), (j) (superseded by §§ 13.18, 13.20, 13.63(b),

13.68(a), 13.72(a); 2.11 (superseded by § 13.19 except for park areas enumerated in § 13.19(a)), 2.18 (superseded by § 13.18); 2.20(a)(2) and (b) superseded by § 13.20 except for park areas enumerated in § 13.20(a); 2.23(a)–(d) (superseded by §§ 13.12 and 13.46); 2.34(a)–(c) (superseded by § 13.10); 2.36 (superseded by § 13.13); 3.2 (superseded by § 13.11); 4.19(a)–(b) superseded by § 13.14); 7.23(a) (superseded by § 13.13); 7.44(f) and (h) (superseded by §§ 13.11, 13.13); 7.46(b)–(c) (superseded by §§ 13.11, 13.13); 7.87 (superseded by numerous provisions); 9.3 (superseded by § 13.15); 9.7 (superseded by § 13.15); and Part 9B.

The remaining provisions of 36 CFR Parts 1–9 generally remain applicable in Alaska park areas, though minor modifications may have resulted from this rulemaking. Persons desiring more detailed and official information on the applicability of the National Park System general regulations in Alaska may contact the Alaska Regional Director's Office.

Compliance with Other Laws

The Service has prepared an Environmental Assessment on this rulemaking and has made a Finding of No Significant Impact pursuant to regulations implementing the National Environmental Policy Act (42 U.S.C. 4332). Copies of the Environmental Assessment and Finding of No Significant Impact are available for public review in the Service's Alaska Regional Office.

The Service has also determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193, February 19, 1981) and that this rulemaking would not have a "significant economic effect on a substantial number of small entities" within the meaning of the Regulatory Flexibility Act (Pub. L. 96–354) and 43 CFR Part 14 (45 FR 85376, December 24, 1980). Finally, the Service has received approval from the Office of Management and Budget for the information collection requirements of these regulations (*e.g.*, applications for permits under §§ 13.13, 13.15, 13.16, 13.17, 13.31, 13.44, 13.45 and 13.51) pursuant to the Paperwork Reduction Act (Pub. L. 96–511).

Drafting Information

The primary authors of these regulations are: Maureen Finnerty, Division of Ranger Activities and Protection, National Park Service, Washington, D.C.; William F. Paleck, Alaska Regional Office, National Park Service, Anchorage, Alaska; and Molly N. Ross and Thomas R. Lundquist, Office of the Solicitor, Department of the Interior, Washington, D.C.

Authority

Section 3 of the Act of August 15, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); 16 U.S.C. 1, 1a–1, 1c, 462, 1281; the Alaska National Interest Lands Conservation Act (ANILCA), 94 Stat. 2371, Pub. L. 96–487 (December 2, 1980); and the Paperwork Reduction Act of 1980, 94 Stat. 2812, Pub. L. 96–511.

G. Ray Arnett,

Assistant Secretary, Fish and Wildlife and Parks.

Title 36 Code of Federal Regulations is amended by adding new Part 13 to read as follows:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

Subpart A—Public Use and Recreation

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13.1 Definitions.
13.2 Applicability and scope.
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13.12 Nonmotorized surface transportation.
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13.40 Purpose and policy.
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13.47 Subsistence fishing.
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Subpart C—Special Regulations—Specific Park Areas in Alaska

13.60 Aniakchak National Monument and Preserve.
13.61 Bering Land Bridge National Preserve.
13.62 Cape Krusenstern National Monument.
13.63 Denali National Park and Preserve.
13.64 Gates of the Arctic National Park and Preserve.
13.65 Glacier Bay National Park and Preserve.
13.66 Katmai National Park and Preserve.
13.67 Kenai Fjords National Park.
13.68 Klondike Gold Rush National Historical Park.
13.69 Kobuk Valley National Park.
13.70 Lake Clark National Park and Preserve.
13.71 Noatak National Preserve.
13.72 Sitka National Historical Park.
13.73 Wrangell-St. Elias National Park and Preserve.
13.74 Yukon-Charley Rivers National Preserve.

Authority: Sec. 3 of the Act of August 15, 1916 (39 Stat. 535, as amended (16 U.S.C. 3); 16 U.S.C. 1, 1a–1, 1c, 462); Alaska National Interest Lands Conservation Act (ANILCA), 94 Stat. 2371 and 1281; Pub. L. No. 96–487 (December 2, 1980); and the Paperwork Reduction Act of 1980, 94 Stat. 2812, Pub. L. No. 96–511.

Subpart A—Public Use and Recreation

§ 13.1 Definitions.

The following definitions shall apply to all regulations contained in this part:

(a) The term "adequate and feasible access" means a reasonable method and route of pedestrian or vehicular transportation which is economically practicable for achieving the use or development desired by the applicant on his/her non-federal land or occupancy interest, but does not necessarily mean the least costly alternative.

(b) The term "aircraft" means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including, but not limited to airplanes, helicopters and gliders.

(c) The term "ANILCA" means the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Pub. L. 96–487 (December 2, 1980)).

(d) The term "carry" means to wear, bear or carry on or about the person and additionally, in the case of firearms, within or upon a device or animal used for transportation.

(e) The term "downed aircraft" means an aircraft that as a result of mechanical failure or accident cannot take off.

(f) The term "firearm" means any loaded or unloaded pistol, revolver, rifle, shotgun or other weapon which will or is designated to or may readily be converted to expel a projectile by the action of expanded gases, except that it does not include a pistol or rifle powered by compressed gas. The term "firearm" also includes irritant gas devices.

(g) The term "fish and wildlife" means any member of the animal kingdom,

including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, produce, egg, or offspring thereof, or the dead body or part thereof.

(h) The term "fossil" means any remains, impression, or trace of any animal or plant of past geological ages that has been preserved, by natural processes, in the earth's crust.

(i) The term "gemstone" means a silica or igneous mineral including, but not limited to (1) geodes, (2) petrified wood, and (3) jade, agate, opal, garnet, or other mineral that when cut and polished is customarily used as jewelry or other ornament.

(j) The term "National Preserve" shall include the following areas of the National Park System:

Alagnak National Wild and Scenic River, Aniakchak National Preserve, Bering Land Bridge National Preserve, Denali National Preserve, Gates of the Arctic National Preserve, Glacier Bay National Preserve, Katmai National Preserve, Lake Clark National Preserve, Noatak National Preserve, Wrangell-St. Elias National Preserve, and Yukon-Charley National Preserve.

(k) The term "net" means a seine, weir, net wire, fish trap, or other implement designed to entrap fish, except a landing net.

(l) The term "off-road vehicle" means any motor vehicle designed for or capable of crosscountry travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain, except snowmachines or snowmobiles as defined in this chapter.

(m) The term "park areas" means lands and waters administered by the National Park Service within the State of Alaska.

(n) The term "person" means any individual, firm, corporation, society, association, partnership, or any private or public body.

(o) The term "possession" means exercising dominion or control, with or without ownership, over weapons, traps, nets or other property.

(p) The term "public lands" means lands situated in Alaska which are federally owned lands, except—

(1) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act (72 Stat. 339) and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act (85 Stat. 688) which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(q) The term "snowmachine" or "snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 pounds (450 kg), driven by a track or tracks in contact with the snow and steered by a ski or skis on contact with the snow.

(r) The term "Superintendent" means any National Park Service official in charge of a park area, the Alaska Regional Director of the National Park Service, or an authorized representative of either.

(s) The term "take" or "taking" as used with respect to fish and wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

(t) The term "temporary" means a continuous period of time not to exceed 12 months, except as specifically provided otherwise.

(u) The term "trap" means a snare, trap, mesh, or other implement designed to entrap animals other than fish.

(v) The term "unload" means there is no unexpended shell or cartridge in the chamber or magazine of a firearm; bows, crossbows and spearguns are stored in such a manner as to prevent their ready use; muzzle-loading weapons do not contain a powder charge; and any other implement capable of discharging a missile into the air or under the water does not contain a missile or similar device within the loading or discharging mechanism.

(w) The term "weapon" means a firearm, compressed gas or spring powered pistol or rifle, bow and arrow, crossbow, blow gun, speargun, hand thrown spear, slingshot, explosive device, or any other implement designed to discharge missiles into the air or under the water.

§ 13.2 Applicability and scope.

(a) The regulations contained in this Part 13 are prescribed for the proper use and management of park areas in Alaska and supplement the general regulations of this chapter. The general regulations contained in this chapter are applicable except as modified by this Part 13.

(b) Subpart A of this Part 13 contains regulations applicable to park areas. Such regulations amend in part the general regulations contained in this chapter. The regulations in Subpart A govern use and management, including subsistence activities, within the park areas, except as modified by Subparts B or C.

(c) Subpart B of this Part 13 contains regulations applicable to subsistence activities. Such regulations apply to park areas except Kenai Fjords National Park, Katmai National Park, Glacier Bay National Park, Klondike Gold Rush National Historical Park, Sitka National Historical Park, and parts of Denali National Park. The regulations in Subpart B amend in part the general regulations contained in this chapter and the regulations contained in Subpart A of this Part 13.

(d) Subpart C of this Part 13 contains special regulations for specific park areas. Such regulations amend in part the general regulations contained in this chapter and the regulations contained in Subparts A and B of this Part 13.

(e) The regulations contained in this Part 13 are applicable only on federally owned lands within the boundaries of any park area. For purposes of this part, "federally owned lands" means land interests held or retained by the United States, but does not include those land interests: (1) Tentatively approved, legislatively conveyed, or patented to the State of Alaska; or (2) interim conveyed or patented to a Native Corporation or person.

§ 13.3 Penalties.

Any person convicted of violating any provision of the regulations contained in this Part 13, or as the same may be amended or supplemented, may be punished by a fine not exceeding $500 or by imprisonment not exceeding 6 months, or both, and may be adjudged to pay all costs of the proceedings (16 U.S.C. 3).

§ 13.4 Information collection.

The information collection requirements contained in §§ 13.13, 13.14, 13.15, 13.16, 13.17, 13.31, 13.44, 13.45, 13.49, and 13.51 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1024-0015. The information is being collected to solicit information necessary for the Superintendent to issue permits and other benefits. This information will be used to grant statutory or administrative benefits. In all sections except 13.13, the obligation to respond is required to obtain a benefit. In § 13.13, the obligation to respond is mandatory.

§ 13.10 Snowmachines.

(a) The use of snowmachines (during periods of adequate snow cover or frozen river conditions) for traditional activities (where such activities are permitted by ANILCA or other law) and for travel to and from villages and homesites, is permitted within park areas, except where such use is prohibited or otherwise restricted by the Superintendent in accordance with the provisions of § 13.30. Nothing in this section affects the use of snowmobiles by local rural residents engaged in subsistence uses as authorized by § 13.46.

(b) For the purposes of this section "adequate snow cover" shall mean snow of sufficient depth to protect the underlying vegetation and soil.

§ 13.11 Motorboats.

Motorboats may be operated on all park area waters, except where such use is prohibited or otherwise restricted by the Superintendent in accordance with the provisions of § 13.30, or § 7.23(b)–(f) of this chapter. Nothing in this section affects the use of motorboats by local rural residents engaged in subsistence uses as authorized by § 13.46.

§ 13.12 Nonmotorized surface transportation.

The use of nonmotorized surface transportation such as domestic dogs, horses and other pack or saddle animals is permitted in park areas except where such use is prohibited or otherwise restricted by the Superintendent in accordance with the provisions of § 13.30. Nothing in this section affects the use of nonmotorized surface transportation by local rural residents engaged in subsistence uses as authorized by § 13.46.

§ 13.13 Aircraft.

(a) Fixed-wing aircraft may be landed and operated on lands and waters within park areas, except where such use is prohibited or otherwise restricted by the Superintendent in accordance with this section. The use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish and wildlife for subsistence uses therein is prohibited as set forth in §13.45.

(b) In imposing any prohibitions or restrictions on fixed-wing aircraft use the Superintendent shall: (1) Comply with the procedures set forth in § 13.30; (2) publish notice of prohibitions or restrictions as "Notices to Airmen" issued by the Department of Transportation; and (3) publish permanent prohibitions or restrictions as a regulatory notice in the United States Government Flight Information Service "Supplement Alaska."

(c) Except as provided in paragraph (d) of this section, the owners of any aircraft downed after December 2, 1980, shall remove the aircraft and all component parts thereof in accordance with procedures established by the Superintendent. In establishing a removal procedure, the Superintendent is authorized to: (1) Establish a reasonable date by which aircraft removal operations must be complete; and (2) determine times and means of access to and from the downed aircraft.

(d) The Superintendent may waive the requirements of § 13.12(c) upon a determination that: (1) The removal of downed aircraft would constitute an unacceptable risk to human life; or (2) the removal of a downed aircraft would result in extensive resource damage; or (3) the removal of a downed aircraft is otherwise impracticable or impossible.

(e) Salvaging, removing, posessing, or attempting to salvage, remove or possess any downed aircraft or component parts thereof is prohibited, except in accordance with a removal procedure established under paragraph (c) of this section. *Provided, however,* That the owner or an authorized representative thereof may remove valuable component parts from a downed aircraft at the time of rescue without a permit.

(f) The use of a helicopter in any park area, other than at designated landing areas (*see* Subpart C regulations for each park area) pursuant to the terms and conditions of a permit issued by the Superintendent, is prohibited.

§ 13.14 Off-road vehicles.

(a) The use of off-road vehicles in locations other than established roads and parking areas is prohibited, except on routes or in areas designated by the Superintendent or pursuant to a valid permit as prescribed in paragraph (c) of this section or in § 13.15 or § 13.16. Such designations shall be made in accordance with procedures in this section. Nothing in this section affects the use of off-road vehicles by local rural residents engaged in subsistence as authorized by § 13.46.

(b)(1) The Superintendent's determination of whether to designate a route or area for off-road vehicle use shall be governed by Executive Order 11644, as amended.

(2) Route or area designations shall be published in the "Federal Register."

(3) Notice of routes or areas on which off-road travel is permitted shall be in accordance with the provisions of § 13.30(f).

(4) The closure or restrictions on use of designated routes or areas to off-road vehicles use shall be in accordance with the provisions of § 13.30.

(c) The Superintendent is authorized to issue permits for the use of off-road vehicles on existing off-road vehicle trails located in park areas (other than areas designated as part of the National Wilderness Preservation System) upon a finding that such off-road vehicle use would be compatible with park purposes and values. The Superintendent shall include in any permit such stipulations and conditions as are necessary for the protection of park purposes and values.

§ 13.15 Access to inholdings.

(a) *Purpose.* A permit for access to inholdings pursuant to this section is required only where adequate and feasible access is not affirmatively provided without a permit under §§ 13.10–13.14 of these regulations. Thus, it is the purpose of this section to ensure adequate and feasible access across a park area for any person who has a valid property or occupancy interest in lands within or effectively surrounded by a park area or other lands listed in section 1110(b) of ANILCA.

(b) *Application and Administration.* (1) Applications for a permit designating methods and routes of access across park areas not affirmatively provided for in this part shall be submitted to the Superintendent having jurisdiction over the affected park area as specified under § 13.31.

(2) Except as provided in paragraph (c) of this section, the access permit application shall contain the name and address of the applicant, documentation of the relevant property or occupancy interest held by the applicant (including for 1872 Mining Law claimants a copy of the location notice and recordations required under the 1872 Mining Law and 43 U.S.C. 1744), a map or physical description of the relevant property or occupancy interest, a map or physical description of the desired route of access, a description of the desired method of access, and any other information necessary to determine the adequacy and feasibility of the route or method of access and its impact on the natural or other values of the park area.

(3) The Superintendent shall specify in a nontransferable permit, adequate and feasible routes and methods of access across park areas for any person who meets the criteria of paragraph (a) of this section. The Superintendent shall designate the routes and methods desired by the applicant unless it is determined that:

(i) The route or method of access would cause significant adverse impacts on natural or other values of the park area, and adequate and feasible access otherwise exists; or

(ii) The route or method of access would jeopardize public health and safety, and adequate and feasible access otherwise exists.

(4) If the Superintendent makes one of the findings described in paragraph (b)(3) of this section, he/she shall specify such other alternate methods and routes of access as will provide the applicant adequate and feasible access, while minimizing damage to natural and other values of the park area.

(5) Any person holding an access permit shall notify the Superintendent of any significant change in the method or level of access from that occurring at the time of permit issuance. In such cases, the Superintendent may modify the terms and conditions of the permit, provided that the modified permit also assures adequate and feasible access under the standards of paragraph (b)(3) of this section.

(6) Routes and methods of access permitted pursuant to this section shall be available for use by guests and invitees of the permittee.

(c) *Access requiring permanent improvements.* (1) Application form and procedure. Any application for access to an inholding which proposes the construction or modification of an improved road (*e.g.*, construction or modification of a permanent, year-round nature, and which involves substantial alteration of the terrain or vegetation, such as grading, gravelling of surfaces, concrete bridges, or other such construction or modification), or any other permanent improvement on park area lands qualifying as a "transportation or utility system" under Section 1102 of ANILCA, shall be submitted on the consolidated application form specified in Section 1104(h) of ANILCA, and processed in accordance with the procedures of Title XI of ANILCA.

(2) Decision-making standard. (i) If the permanent improvement is required for adequate and feasible access to the inholding (*e.g.*, improved right-of-way or landing strip), the permit granting standards of paragraph (b) of this section shall apply.

(ii) If the permanent improvement is not required as part of the applicant's right to adequate and feasible access to an inholding (*e.g.*, pipeline, transmission line), the permit granting standards of Sections 1104–1107 of ANILCA shall apply.

(d) *Clarification of the Applicability of 36 CFR Part 9.* (1) 1872 Mining Law Claims and 36 CFR Subpart 9A. Since section 1110(b) of ANILCA guarantees adequate and feasible access to valid mining claims within park areas notwithstanding any other law, and since the 36 CFR 9.3 requirement for an approved plan of operations prior to the issuance of an access permit may interfere with needed access, 36 CFR 9.3 is no longer applicable in Alaska park areas. However, holders of patented or unpatented mining claims under the 1872 Mining Law (30 U.S.C. 22 *et seq.*) should be aware that 36 CFR 9.9, 9.10 independently require an approved plan of operations prior to conducting mining operations within a park area (except that no plan of operations is required for patented claims where access is not across federally-owned parklands).

(2) Non-Federal Oil and Gas Rights and 36 CFR Subpart 9B. Since section 1110(b) of ANILCA guarantees adequate and feasible access to park area inholdings notwithstanding any other law, and since 36 CFR Subpart 9B was predicated on the park area Superintendent's discretion to restrict and condition such access, 36 CFR Subpart 9B is no longer applicable in Alaska park areas.

§ 13.16 Temporary access.

(a) *Applicability.* This section is applicable to State and private landowners who desire temporary access across a park area for the purposes of survey, geophysical, exploratory and other temporary uses of such nonfederal lands, and where such temporary access is not affirmatively provided for in §§ 13.10–13.15. State and private landowners meeting the criteria of § 13.15(a) are directed to utilize the procedures of § 13.15 to obtain temporary access.

(b) *Application.* A landowner requiring temporary access across a park area for survey, geophysical, exploratory or similar temporary activities shall apply to the Superintendent for an access permit and shall provide the relevant information described in section 13.15(b)(2), concerning the proposed access.

(c) *Permit standards, stipulations and conditions.* The Superintendent shall grant the desired temporary access whenever he/she determines that such access will not result in permanent harm to park area resources. The Superintendent shall include in any permit granted such stipulations and conditions on temporary access as are necessary to ensure that the access granted would not be inconsistent with the purposes for which the park area was reserved and to ensure that no permanent harm will result to park area resources.

(d) *Definition.* For the purposes of this section, "temporary access" shall mean limited, short-term (*i.e.*, up to on year from issuance of the permit) access, which does not require permanent facilities for access, to undeveloped State or private lands.

§ 13.17 Cabins and other structures.

(a) *Purpose.* It is the purpose of this section to provide procedures and guidance for those occupying and using existing cabins and those wishing to construct new cabins within park areas.

(b) *Existing cabins or other structures.* (1) This subsection applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(2) Cabins or other structures existing prior to December 18, 1973, may be occupied and used by the claimants to these structures pursuant to a nontransferable, renewable permit. This use and occupancy shall be for terms of five years. *Provided, however,* That the claimant to the structure, by application:

(i) Reasonably demonstrates by affidavit, bill of sale or other documentation proof of possessory interest or right of occupancy in the cabin or structure;

(ii) Submits an acceptable photograph or sketch which accurately depicts the cabin or structure and a map showing its geographic location;

(iii) Agrees to vacate and remove all personal property from the cabin or structure upon expiration of the permit;

(iv) Acknowledges in the permit that he/she has no interest in the real property on which the cabin or structure is located; and

(v) Submits a listing of the names of all immediate family members residing in the cabin or structure.

Permits issued under the provisions of this paragraph shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure under permit. Renewal will occur unless the Superintendent determines after notice and hearing, and on the basis of substantial evidence in the administrative record as a whole, that the use under the permit is causing or may cause significant detriment to the principal purposes for which the park area was established. The Superintendent's decision may be appealed pursuant to the provisions of 43 CFR 4.700.

(3) Cabins or other structures, the occupancy or use of which began between December 18, 1973, and December 1, 1978, may be used and occupied by the claimant to these structures pursuant to a nontransferable, nonrenewable permit. This use and occupancy shall be for a maximum term of 1 year: *Provided, however,* That the claimant, by application, complies with § 13.17(c)(1) (i) through (iv) above. Permits issued under the provisions of this paragraph may be extended by the Superintendent, subject to reasonable regulations, for a period not to exceed one year for such reasons as the Superintendent deems equitable and just.

(4) Cabins or other structures, construction of which began after December 1, 1978, shall not be available for use and occupancy, unless authorized under the provisions of paragraph (d) of this section.

(5) Cabins or other structures, not under permit, shall be used only for official government business: *Provided, however,* That during emergencies involving the safety of human life, or where designated for public use by the Superintendent through the posting of signs, these cabins may be used by the general public.

(c) *New Cabins or Other Structures Necessary for Subsistence Uses or Otherwise Authorized by Law.* The Superintendent may issue a permit under such conditions as he/she may prescribe for the construction, reconstruction, temporary use, occupancy, and maintenance of new cabins or other structures when he/she determines that the use is necessary to accommodate reasonably subsistence uses or is otherwise authorized by law. In determining whether to permit the use, occupancy, construction, reconstruction or maintenance of cabins or other structures, the Superintendent shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation and other management considerations necessary to ensure that the activities authorized pursuant to this section are compatible with the purposes for which the park area was established.

(d) *Existing Cabin Leases or Permits.* Nothing in this section shall preclude the renewal or continuation of valid leases or permits in effect as of December 2, 1980, for cabins, homesites, or similar structures on federally owned lands. Unless the Superintendent issues specific findings, following notice and an opportunity for the leaseholder or permittee to respond, that renewal or continuation of such valid permit or lease constitutes a direct threat or a significant impairment to the purposes for which the park area was established, he/she shall renew such valid leases or permits upon their expiration in accordance with the provisions of the original lease or permit subject to such reasonable regulations as he/she prescribe in keeping with the management objectives of the park area. Subject to the provisions of the original lease or permit, nothing in this paragraph shall necessarily preclude the Superintendent from transferring such a lease or permit to another person at the election or death of the original permittee or leasee.

§ 13.18 Camping and picnicking.

(a) *Camping.* Camping is permitted in park areas except where such use is prohibited or otherwise restricted by the Superintendent in accordance with the provisions of § 13.30, or as set forth for specific park areas in Subpart C of this part.

(b) *Picnicking.* Picnicking is permitted in park areas except where such activity is prohibited by the posting of appropriate signs.

§ 13.19 Weapons, traps and nets.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park and the former Mt. McKinley National Park, Glacier Bay National Monument and Katmai National Monument.

(b) Firearms may be carried within park areas in accordance with applicable Federal and State laws, except where such carrying is prohibited or otherwise restricted pursuant to § 13.30.

(c) Traps, bows and other implements authorized by State and Federal law for the taking of fish and wildlife may be carried within National Preserves only during those times when the taking of fish and wildlife is authorized by applicable law or regulation.

(d) In addition to the authorities provided in paragraphs (b) and (c) of this section, weapons (other than firearms) traps and nets may be possessed within park areas provided such weapons, traps or nets are within or upon a device or animal used for transportation and are unloaded and cased or otherwise packed in such a manner as to prevent their ready use while in a park area.

(e) Notwithstanding the provisions of this section, local rural residents who are authorized to engage in subsistence uses, including the taking of wildlife pursuant to § 13.48, may use, possess, or carry traps, nets and other weapons in accordance with applicable State and Federal laws.

§ 13.20 Preservation of natural features.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park, Sitka National Historical Park, the former Mt. McKinley National Park, Glacier Bay National Monument, and Katmai National Monument.

(b) *Renewable Resources.* The gathering or collecting, by hand and for personal use only, of the following renewable resources is permitted:

(1) Natural plant food items, including fruits, berries and mushrooms, but not including threatened or endangered species;

(2) Driftwood and uninhabited seashells;

(3) Such plant materials and minerals as are essential to the conduct of traditional ceremonies by Native Americans; and

(4) Dead or downed wood for use in fires within park areas.

(c) *Rocks and Minerals.* Surface collection, by hand (including hand-held gold pans) and for personal recreational use only, of rocks and minerals is permitted: *Provided, however,* That (1) collection of silver, platinum, gemstones and fossils is prohibited, and (2) collection methods which may result in disturbance of the ground surface, such as the use of shovels, pickaxes, sluice boxes, and dredges, are prohibited.

(d) *Closure and Notice.* Under conditions where it is found that significant adverse impact on park resources, wildlife populations, subsistence uses, or visitor enjoyment of resources will result, the Superintendent shall prohibit the gathering or otherwise restrict the collecting of these items. Portions of a park area in which closures or restrictions apply shall be (1) published in at least one newspaper of general circulation in the State and designated on a map which shall be available for public inspection in the office of the Superintendent, or (2) designated by the posting of appropriate signs, or (3) both.

(e) *Subsistence.* Nothing in this section shall apply to local rural residents authorized to take renewable resources.

§ 13.21 Taking of fish and wildlife.

(a) *Subsistence.* Nothing in this section shall apply to the taking of fish and wildlife for subsistence uses.

(b) *Fishing.* Fishing is permitted in all park areas in accordance with applicable State and Federal law, and such laws are hereby adopted and made a part of these regulations to the extent they are not inconsistent with § 2.13 of this chapter. With respect to the Cape Krusenstern National Monument, the Malaspina Glacier Forelands area of the Wrangell-St. Elias National Preserve, and the Dry Bay area of Glacier Bay National Preserve, the exercise of valid commercial fishing rights or privileges obtained pursuant to existing law—including any use of park area lands for campsites, cabins, motorized vehicles, and aircraft landings on existing airstrips which is directly incident to the exercise of such rights or privileges—may continue: *Provided, however,* That the Superintendent may restrict the use of park area lands directly incident to the exercise of these rights or privileges if he/she determines, after conducting a public hearing in the affected locality, that such use of park area lands constitutes a significant expansion of the use of park area lands beyond the level of such use during 1979.

(c) *Hunting and Trapping.* Hunting and trapping are permitted in all National Preserves in accordance with applicable State and Federal law, and such laws are hereby adopted and made a part of these regulations: *Provided, however,* That engaging in trapping activities, as the employee of another person is prohibited.

(d) *Closures and Restrictions.* The Superintendent may prohibit or restrict the taking of fish or wildlife in accordance with the provisions of § 13.30. Except in emergency conditions, such restrictions shall take effect only after consultation with the appropriate State agency having responsibility over fishing, hunting, or trapping and representatives of affected users.

§ 13.22 Unattended or abandoned property.

(a) This section applies to all park areas in Alaska except Klondike Gold Rush National Historical Park and Sitka National Historical Park, or as further restricted for specific park areas in Subpart C of this part.

(b) Leaving any snowmachine, vessel, off-road vehicle or other personal property unattended for longer than 12 months without prior permission of the Superintendent is prohibited, and any property so left may be impounded by the Superintendent.

(c) The Superintendent may (1) designate areas where personal property may not be left unattended for any time period, (2) establish limits on the amount, and type of personal property that may be left unattended, (3) prescribe the manner in which personal property may be left unattended, or (4) establish limits on the length of time personal property may be left unattended. Such designations and restrictions shall be (i) published in at least one newspaper of general circulation within the State, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected community, and designated on a map which shall be available for public inspection at the office of the Superintendent, or (ii) designated by the posting of appropriate signs or (iii) both.

(d) In the event unattended property interferes with the safe and orderly management of a park area or is causing damage to the resources of the area, it may be impounded by the Superintendent at any time.

§ 13.30 Closure procedures.

(a) *Authority.* The Superintendent may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrict an activity on an emergency basis, the Superintendent shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner compatible with the purposes for which the park area was established.

(c) *Emergency Closures.* (1) Emergency closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation shall be made after notice and hearing; (2) emergency closures or restrictions relating to the taking of fish and wildlife shall be accompanied by notice and hearing; (3) other emergency closures shall become effective upon notice as prescribed in § 13.30(f); and (4) no emergency closure or restriction shall extend for a period exceeding 30 days, nor may it be extended.

(d) *Temporary closures or restrictions.* (1) Temporary closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation or to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) directly affected by such closures or restrictions, and other locations as appropriate; (2) other temporary closures shall be effective upon notice as prescribed in § 13.30(f); (3) temporary closures or restrictions shall not extend for a period exceeding 12 months and may not be extended.

(e) *Permanent closures or restrictions.* Permanent closures or restrictions shall be published as rulemaking in the Federal Register with a minimum public comment period of 60 days and shall be accompanied by public hearings in the area affected and other locations as appropriate.

(f) *Notice.* Emergency, temporary and permanent closures or restrictions shall be (1) published in at least one newspaper of general circulation in the State and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Superintendent and other places convenient to the public; or (2) designated by the posting of appropriate signs; or (3) both.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Superintendent shall provide notice in the Federal Register and shall, upon request, hold a hearing in the affected vicinity and other locations as appropriate prior to making a final determination.

(h) Except as otherwise specifically permitted under the provisions of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

§ 13.31 Permits.

(a) *Application.* (1) Application for a permit required by any section of this part shall be submitted to the Superintendent having jurisdiction over the affected park area, or in the absence of the Superintendent, the Regional Director. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application.

(2) The Superintendent shall grant or deny the application in writing within 45 days. If this deadline cannot be met for good cause, the Superintendent shall so notify the applicant in writing. If the permit application is denied, the Superintendent shall specify in writing the reasons for the denial.

(b) *Denial and appeal procedures.* (1) An applicant whose application for a permit, required pursuant to this part, has been denied by the Superintendent has the right to have the application reconsidered by the Regional Director by contacting him/her within 180 days of the issuance of the denial. For purposes of reconsideration, the permit applicant shall present the following information:

(i) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in the section under which the permit application is made.

(ii) The basis for the permit applicant's disagreement with the Superintendent's findings and conclusions; and

(iii) Whether or not the permit applicant requests an informal hearing before the Regional Director.

(2) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

Subpart B—Subsistence

§ 13.40 Purpose and policy.

(a) Consistent with the management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each park area was established, designated, or expanded by ANILCA, the purpose of this subpart is to provide the opportunity for local rural residents engaged in a subsistence way of life to do so pursuant to applicable State and Federal law.

(b) Consistent with sound management principles, and the conservation of healthy populations of fish and wildlife, the utilization of park areas is to cause the least adverse impact possible on local rural residents who depend upon subsistence uses of the resources of the public lands in Alaska.

(c) Nonwasteful subsistence uses of fish, wildlife and other renewable resources by local rural residents shall be the priority consumptive uses of such resources over any other consumptive uses permitted within park areas pursuant to applicable State and Federal law.

(d) Whenever it is necessary to restrict the taking of a fish or wildlife population within a park area for subsistence uses in order to assure the continued viability of such population or to continue subsistence uses of such population, the population shall be allocated among local rural residents engaged in subsistence uses in accordance with a subsistence priority system based on the following criteria:

(1) Customary and direct dependence upon the resource as the mainstay of one's livelihood;

(2) Local residency; and

(3) Availability of alternative resources.

(e) The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within park areas to the extent such regulation is consistent with applicable Federal law, including but not limited to ANILCA.

(f) Nothing in this subpart shall be construed as permitting a level of subsistence use of fish and wildlife within park areas to be inconsistent with the conservation of healthy populations, and within a national park or monument to be inconsistent with the conservation of natural and healthy populations, of fish and wildlife.

§ 13.41 Applicability.

Subsistence uses by local rural residents are allowed pursuant to the regulations of this Subpart in the following park areas:

(a) In national preserves;

(b) In Cape Krusenstern National Monument and Kobuk Valley National Park;

(c) Where such uses are traditional (as may be further designated for each park or monument in Subpart C of this part) in Aniakchak National Monument, Gates of the Arctic National Park, Lake Clark National Park, Wrangell-St. Elias National Park, and the Denali National Park addition.

§ 13.42 Definitions.

(a) *Local rural resident.* (1) As used in this part with respect to national parks and monuments, the term "local rural resident" shall mean either of the following:

(i) Any person who has his/her primary, permanent home within the resident zone as defined by this section, and whenever absent from this primary, permanent home, has the intention of returning to it. Factors demonstrating the location of a person's primary, permanent home may include, but are not limited to, the permanent address indicated on licenses issued by the State of Alaska Department of Fish and Game, driver's license, and tax returns, and the location of registration to vote.

(ii) Any person authorized to engage in subsistence uses in a national park or monument by a subsistence permit issued pursuant to § 13.44.

(b) *Resident zone.* As used in this part, the term "resident zone" shall mean the area within, and the communities and areas near, a national park or monument in which persons who have customarily and traditionally engaged in subsistence uses within the national park or monument permanently reside. The communities and areas near a national park or monument included as a part of its resident zone shall be determined pursuant to § 13.43 and listed for each national park or monument in Subpart C of this part.

(c) *Subsistence uses.* As used in this part, the term "subsistence uses" shall mean the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and for customary trade. For the purposes of this paragraph, the term—

(1) "Family" shall mean all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "Barter" shall mean the exchange of fish or wildlife or their parts taken for subsistence uses—

(i) For other fish or game or their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) "Customary trade" shall be limited to the exchange of furs for cash (and such other activities as may be designated for a specific park area in Subpart C of this part).

§ 13.43 Determination of resident zones.

(a) A resident zone shall include—

(1) the area within a national park or monument, and

(2) the communities and areas near a national park or monument which contain significant concentrations of rural residents who, without using aircraft as a means of access for purposes of taking fish or wildlife for subsistence uses (except in extraordinary cases where no reasonable alternative existed), have customarily and traditionally engaged in subsistence uses within a national park or monument. For purposes of

determining "significant" concentrations, family members shall also be included.

(b) After notice and comment, including public hearing in the affected local vicinity, a community or area near a national park or monument may be—

(1) Added to a resident zone, or

(2) Deleted from a resident zone, when such community or area does or does not meet the criteria set forth in paragraph (a) of this section, as appropriate.

(c) For purposes of this section, the term "family" shall mean all persons living within a rural resident's household on a permanent basis.

§ 13.44 Subsistence permits for persons whose primary, permanent home is outside a resident zone.

(a) Any rural resident whose primary, permanent home is outside the boundaries of a resident zone of a national park or monument may apply to the appropriate Superintendent pursuant to the procedures set forth in § 13.51 for a subsistence permit authorizing the permit applicant to engage in subsistence uses within the national park or monument. The Superintendent shall grant the permit if the permit applicant demonstrates that,

(1) Without using aircraft as a means of access for purposes of taking fish and wildlife for subsistence uses, the applicant has (or is a member of a family which has) customarily and traditionally engaged in subsistence uses within a national park or monument; or

(2) The applicant is a local rural resident within a resident zone for another national park or monument, or meets the requirements of paragraph (1) of this section for another national park or monument, and there exists a pattern of subsistence uses (without use of an aircraft as a means of access for purposes of taking fish and wildlife for subsistence uses) between the national park or monument previously utilized by the permit applicant and the national park or monument for which the permit applicant seeks a subsistence permit.

(b) In order to provide for subsistence uses pending application for and receipt of a subsistence permit, until August 1, 1981, any rural resident whose primary permanent home is outside the boundaries of a resident zone of a national park or monument and who meets the criteria for a subsistence permit set forth in paragraph (a) of this section may engage in subsistence uses in the national park or monument without a permit in accordance with applicable State and Federal law. Effective August 1, 1981, however, such rural resident must have a subsistence permit as required by paragraph (a) of this section in order to engage in subsistence uses in the national park or monument.

(c) For purposes of this section, the term "family" shall mean all persons living within a rural resident's household on a permanent basis.

§ 13.45 Prohibition of aircraft use.

(a) Notwithstanding the provisions of § 13.12 the use of aircraft for access to or from lands and waters within a national park or monument for purposes of taking fish or wildlife for subsistence uses within the national park or monument is prohibited except as provided in this section.

(b) *Exceptions.* (1) In extraordinary cases where no reasonable alternative exists, the Superintendent shall permit, pursuant to specified terms and conditions, a local rural resident of an "exempted community" to use aircraft for access to or from lands and water within a national park or monument for purposes of taking fish or wildlife for subsistence uses.

(i) A community shall quality as an "exempted community" if, because of the location of the subsistence resources upon which it depends and the extraordinary difficulty of surface access to these subsistence resources, the local rural residents who permanently reside in the community have no reasonable alternative to aircraft use for access to these subsistence resources.

(ii) A community which is determined, after notice and comment (including public hearing in the affected local vicinity), to meet the description of an "exempted community" set forth in paragraph (b)(1) of this section shall be included in the appropriate special regulations for each park and monument set forth in Subpart C of this part.

(iii) A community included as an "exempted community" in Subpart C of this part may be deleted therefrom upon a determination, after notice and comment (including public hearing in the affected local vicinity), that it does not meet the description of an "exempted community" set forth in paragraph (b)(1) of this section.

(2) Any local rural resident aggrieved by the prohibition on aircraft use set forth in this section may apply for an exception to the prohibition pursuant to the procedures set forth in § 13.51. In extraordinary cases where no reasonable alternative exists, the Superintendent may grant the exception upon a determination that the location of the subsistence resources depended upon and the difficulty of surface access to these resources, or other emergency situation, requires such relief.

(c) Nothing in this section shall prohibit the use of aircraft for access to lands and waters within a national park or monument for purposes of engaging in any activity allowed by law other than the taking of fish and wildlife. Such activities include, but are not limited to, transportating supplies.

§ 13.46 Use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

(a) Notwithstanding any other provision of this chapter, the use of snowmobiles, motorboats, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within park areas except at those times and in those areas restricted or closed by the Superintendent.

(b) The Superintendent may restrict or close a route or area to use of snowmobiles, motorboats, dog teams, or other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses if the Superintendent determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or the purposes for which the park area was established.

(c) No restrictions or closures shall be imposed without notice and a public hearing in the affected vicinity and other locations as appropriate. In the case of emergency situations, restrictions or closures shall not exceed sixty (60) days and shall not be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such extension is justified according to the factors set forth in paragraph (b) of this section. Notice of the proposed or emergency restrictions or closures and the reasons therefor shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if appropriate, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions and closures shall be designated on a map which shall be available for public inspection at the office of the

Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(d) Motorboats, snowmobiles, dog teams, and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated (1) in compliance with applicable State and Federal law, (2) in such a manner as to prevent waste or damage to the park areas, and (3) in such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

(e) At all times when not engaged in subsistence uses, local rural residents may use snowmobiles, motorboats, dog teams, and other means of surface transportation in accordance with §§ 13.10, 13.11, 13.12, and 13.14, respectively.

§ 13.47 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law, including the provisions of §§ 2.13 and 13.21 of this chapter: *Provided, however,* That local rural residents in park areas where subsistence uses are allowed may fish with a net, seine, trap, or spear where permitted by State law. To the extent consistent with the provisions of this chapter, applicable State laws and regulations governing the taking of fish which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 13.48 Subsistence hunting and trapping

Local rural residents may hunt and trap wildlife for subsistence uses in park areas where subsistence uses are allowed in compliance with applicable State and Federal law. To the extent consistent with the provisions of this chapter, applicable State laws and regulations governing the taking of wildlife which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 13.49 Subsistence use of timber and plant material.

(a) Notwithstanding any other provision of this part, the non-commercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in park areas where subsistence uses are allowed as follows:

(1) For live standing timber of diameter greater than three inches at ground height, the Superintendent may permit cutting in accordance with the specifications of a permit if such cutting is determined to be compatible with the purposes for which the park area was established;

(2) For live standing timber of diameter less than three inches at ground height, cutting is permitted unless restricted by the Superintendent.

(b) The noncommerical gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommerical gathering of dead or downed timber for firewood, shall be allowed without a permit in park areas where subsistence uses are allowed.

(c)(1) Nothwithstanding any other provision of this part, the Superintendent, after notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular plant population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For the purposes of this section, the term "temporarily" shall mean only so long as reasonably necessary to achieve the purposes of the closure.

(2) If the Superintendent determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular plant population, the Superintendent may immediately close all or any portion of a park area to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(3) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and at least one local newspaper if available, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions, or both.

§ 13.50 Closure to subsistence uses of fish and wildlife.

(a) Notwithstanding any other provision of this part, the Superintendent, after consultation with the State and adequate notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For purposes of this section, the term "temporarily" shall mean only so long as reasonably necessary to achieve the purposes of the closure.

(b) If the Superintendent determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Superintendent may immediately close all or any portion of a park area to the subsistence uses of such population. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Superintendent establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(c) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and reasons also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Superintendent of the affected park area and the post office or postal authority of every affected community within or near the park area, or by the posting of signs in the vicinity of the restrictions, or both.

§ 13.51 Application procedures for subsistence permits and aircraft exceptions.

(a) Any person applying for the subsistence permit required by § 13.44(a), or the exception to the prohibition on aircraft use provided by

§ 13.45(b)(2), shall submit his/her application to the Superintendent of the appropriate national park or monument. If the applicant is unable or does not wish to submit the application in written form, the Superintendent shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application. Each application must include (1) a statement which acknowledges that providing false information in support of the application is a violation of Section 1001 of Title 18 of the United States Code, and (2) additional statements or documentation which demonstrates that the applicant satisfies the criteria set forth in § 13.44(a) for a subsistence permit or § 13.45(b)(2) for the aircraft exception, as appropriate. Except in extraordinary cases for good cause shown, the Superintendent shall decide whether to grant or deny the application in a timely manner not to exceed forty-five (45) days following the receipt of the completed application. Should the Superintendent deny the application, he/she shall include in the decision a statement of the reasons for the denial and shall promptly forward a copy to the applicant.

(b) An applicant whose application has been denied by the Superintendent has the right to have his/her application reconsidered by the Alaska Regional Director by contacting the Regional Director within 180 days of the issuance of the denial. The Regional Director may extend the 180-day time limit to initiate a reconsideration for good cause shown by the applicant. For purposes of reconsideration, the applicant shall present the following information:

(1) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in paragraph (a) of this section;

(2) The basis for the applicant's disagreement with the Superintendent's findings and conclusions; and

(3) Whether or not the applicant requests an informal hearing before the Regional Director.

(c) The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Superintendent and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

Subpart C—Special Regulations—Specific Park Areas in Alaska

§ 13.60 Aniakchak National Monument and Preserve.

(a) *Subsistence.*—(1) *Resident Zone.* The following communities and areas are included within the resident zone for Aniakchak National Monument:

Chignik
Chignik Lagoon
Chignik Lake
Meshik
Port Heiden

§ 13.61 Bering Land Bridge National Preserve.

(a) *Off-Road Vehicles.* The use of off-road vehicles for purposes of reindeer grazing may be permitted in accordance with a permit issued by the Superintendent.

§ 13.62 Cape Krusenstern National Monument.

(a) *Subsistence.*—(1) *Resident Zone.* The following communities and areas are included within the resident zone for Cape Krusenstern National Monument:

Kivalina
Kotzebue
Noatak

§ 13.63 Denali National Park and Preserve.

(a) *Subsistence.*—(1) *Resident Zone.* The following communities and areas are included within the resident zone for Denali National Park addition:

Cantwell
Minchumina
Nikolai
Telida

(b) *Camping.* Camping is prohibited along the road corridor and at Wonder Lake, except at designated areas. Camping is allowed in other areas in accordance with the backcountry management plan.

(c) *Unattended or Abandoned Property.* Leaving unattended and abandoned property along the road corridor, at Wonder Lake, and in the areas included in the backcountry management plan, is prohibited.

§ 13.64 Gates of the Arctic National Park and Preserve.

(a) *Subsistence.*—(1) *Resident Zone.* The following communities and areas are included within the resident zone for Gates of the Arctic National Park:

Alatna
Allakaket
Ambler
Anaktuvuk Pass
Bettles/Evansville
Hughes
Kobuk
Nuiqsut
Shungnak
Wiseman

(2) *Aircraft Use.* In extraordinary cases where no reasonable alternative exists, local rural residents who permanently reside in the following exempted community(ies) may use aircraft for access to lands and waters within the park for subsistence purposes in accordance with a permit issued by the Superintendent:

Anaktuvuk Pass

(2) *Customary Trade.* In The Gates of the Arctic National Preserve unit which contains the Kobuk River and its tributaries, "customary trade" shall include—in addition to the exchange of furs for cash—the selling of handicraft articles made from plant material taken by local rural residents of the park area.

§ 13.65 Glacier Bay National Park and Preserve [Reserved].

§ 13.66 Katmai National Park and Preserve [Reserved].

§ 13.67 Kenai Fjords National Park.

(a) *Subsistence.* Subsistence uses are prohibited in, and the provisions of Subpart B of this part shall not apply to, Kenai Fjords National Park.

§ 13.68 Klondike Gold Rush National Historical Park.

(a) *Camping.* Camping is permitted only in designated areas.

§ 13.69 Kobuk Valley National Park.

(a) *Subsistence.*—(1) *Resident Zone.* The following communities and areas are included within the resident zone for Kobuk Valley National Park:

Ambler
Kiana
Kobuk
Kotzebue
Noorvik
Selawik
Shungnak

(2) *Customary Trade.* In addition to the exchange of furs for cash, "customary trade" in Kobuk Valley National Park shall include the selling of handicraft articles made from plant material taken by local rural residents of the park area.

§ 13.70 Lake Clark National Park and Preserve.

(a) *Subsistence.*—(1) *Resident Zone.* The following communities and areas are included within the resident zone for Lake Clark National Park:

Iliamna
Lime Village
Newhalen
Nondalton

Pedro Bay
Port Alsworth

§ 13.71 Noatak National Preserve [Reserved].

§ 13.72 Sitka National Historical Park.

(a) *Camping.* Overnight camping is prohibited.

§ 13.73 Wrangell-St. Elias National Park and Preserve.

(a) *Subsistence.*—(1) *Resident Zone.* The following communities and areas are included within the resident zone for Wrangell-St. Elias National Park:

Chisana
Chistochina
Chitina
Copper Center
Gakona
Gakona Junction
Glennallen
Gulkana
Kenny Lake
Lower Tonsina
McCarthy
Mentasta Lake
Nabesna
Slana
Tazlina
Tok
Tonsina
Yakutat

(2) *Aircraft Use.* In extraordinary cases where no reasonable alternative exists local rural residents who permanently reside in the following exempted community(ies) may use aircraft for access to lands and waters within the park for subsistence purposes in accordance with a permit issued by the Superintendent:

Yakutat (for access to the Malaspina Forelands Area only)

§ 13.74 Yukon Charley Rivers National Preserve [Reserved].

[FR Doc. 81-17994 Filed 6-16-81; 8:45 am]

BILLING CODE 4310-70-M

federal register

Wednesday
June 17, 1981

Part IV

Department of Education

College Library Resources Program (Title II-A HEA); Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 773

College Library Resources Program (Title II-A HEA)

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education is issuing final regulations for the College Library Resources Program to implement the statutory changes contained in the Education Amendments of 1980 (Pub. L. 96-374). These regulations govern resource development grants awarded to institutions of higher education and other eligible library institutions to improve their library holdings and networking capabilities.

EFFECTIVE DATE: Unless the Congress takes certain adjournments, these regulations will take effect August 3, 1981. If you want to know if there has been a change in the effective date of these regulations, call or write the Department of Education contact person. At a future date, the Secretary will publish a notice in the **Federal Register** stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Frank A. Stevens, Telephone (202) 245-9530.

SUPPLEMENTARY INFORMATION:

A. Background

The College Library Resources Program provides funds to institutions of higher education and public and nonprofit private library institutions to assist them in the development of their library collections. Since the inception of the program in 1966, approximately 2,300 institutions of higher education and other library institutions have participated annually, and over 39,000 awards have been issued.

B. Public Comments on the NPRM

A notice of proposed rulemaking (NPRM) for the College Library Resources Program was published in the **Federal Register** on December 23, 1980 (45 FR 84950).

While the provisions of these final regulations are substantially the same as those of the NPRM, changes include:

- In subpart C, § 773.22 "Application for waiver of maintenance of effort" replaces § 773.41 of the NPRM, and § 773.23 "Application from a combination of institutions" replaces § 773.42(c) of the NPRM.
- In § 773.5(b), the definition of "School or department of divinity" is removed. (See EDGAR, 34 CFR 75.532.)
- In § 773.10(b)(2), the sentence which prohibits the use of funds for religious purposes is revised.

Awards under this program are made on the basis of applicant eligibility and compliance with the maintenance of effort requirement. Therefore, the sections of the EDGAR which concern selection criteria (34 CFR 75.202-206), do not apply to this part.

The following public comments were received in response to the NPRM. (The NPRM section designation is shown in parentheses following the current section designation if it is changed.)

§ 773.5 *Definitions* and § 773.40 *Maintenance of effort requirement.* (§ 773.40 *Fiscal requirements.*)

Comment. Two commenters objected to the EDGAR definition of "fiscal year" as applied to the maintenance of effort requirement. They suggested that applicants be permitted to safisfy maintenance of effort requirements on the basis of an applicant's own fiscal year rather than on the Federal fiscal year as defined in EDGAR. The commenters asserted that, by basing the maintenance of effort on the applicant's fiscal year instead of the Federal fiscal year, the time and cost to prepare an application would be reduced.

Response. No change has been made. The statute requires that grantees compute maintenance of effort expenditures on the basis of the Federal fiscal year.

§ 773.40 *Maintenance of effort requirement.* (§ 773.40 *Fiscal requirements.*)

Comment. One commenter urged that "operational support expenditures" be included in those expenditures considered for purposes of the maintenance of effort requirement. The commenter asserted that library personnel costs now exceed the cost of acquiring materials.

Response. No change has been made. Section 211(b)(2) of the statute specifically establishes library material expenditures as the sole basis for satisfying the maintenance of effort requirement.

§ 773.22 *Application for waiver of maintenance of effort.* (§ 773.41 *Waiver of the maintenance effort.*)

Comment. Two commenters objected to the requirement that waivers be restricted to "very unusual circumstances." Constrained budgets, they assert, would prevent some applicants from meeting the maintenance of effort requirement under that strict requirement.

Response. No change has been made. The statute specifically limits to "very unusual circumstances" those circumstances that would qualify an applicant for a waiver.

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

Citation of Legal Authority

A citation of statutory or other legal authority has been placed in parentheses on the line following each provision.

Dated: June 11, 1981.

T. H. Bell,

Secretary of Education.

(Catalog of Federal Domestic Assistance Number 84.005, College Library Resources Program)

The Secretary revises Part 773 of Title 34 of the Code of Federal Regulations to read as follows:

PART 773—COLLEGE LIBRARY RESOURCES PROGRAM

Subpart A—General

Sec.

773.1 College library resources program.
773.2 Eligible applicants.
773.3 Eligibility limitations.
773.4 Regulations that apply to the college library resources program.
773.5 Definitions that apply to the college library resources program.

Subpart B—Kinds of Projects the Secretary Assists Under This Program

773.10 Authorized activities.

Subpart C—How To Apply for a Grant

773.20 Limitations on number of applications.
773.21 Application requirements.
773.22 Application for waiver of maintenance of effort.
773.23 Application from a combination of institutions.

Subpart D—How the Secretary Makes a Grant

773.30 How the Secretary judges applications.
773.31 Amount of grant.

Subpart E—Conditions That Must Be Met by Grantee

773.40 Maintenance of effort requirement
773.41 Coordination with other groups.

Authority: Part A of Title II of the Higher Education Act of 1965, as amended by the Education Amendments of 1980 (Pub. L. 96-374), 96 Stat. 1383 (20 U.S.C. 1021, *et seq.*)

Subpart A—General

§ 773.1 College library resources program.

The College Library Resources Program assists institutions of higher education and other public and nonprofit private library institutions to—

(a) Improve the quality of their library resources, including law library resources; and

(b) Share their library resources through the establishment and maintenance of networks.

(Sec. 201, 211 of the Act; 20 U.S.C. 1021, 1029)

§ 773.2 Eligible applicants.

The following are eligible to apply for a grant under the College Library Resources Program:

(a) An institution of higher education.

(b) A branch of an institution of higher education.

(c) A combination of institutions of higher education.

(d) A public or nonprofit private library institution.

(Sec. 211 of the Act; 20 U.S.C. 1029)

§ 773.3 Eligibility limitations.

(a) A department library or a professional school within an institution of higher education may not apply separately as a branch.

(b) A grantee under Section 231 of the Act, Part C of Title II (Strengthening Research Library Resources), is ineligible to receive a grant under this part for the same fiscal year.

(Sec. 211, 231 of the Act; 20 U.S.C. 1029, 1041)

§ 773.4 Regulations that apply to the college library resources program.

The following regulations apply to the College Library Resources Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 Part CFR 77 (Definitions); and

(b) The regulations in this Part 773.

(20 U.S.C. 3474)

§ 773.5 Definitions that apply to the college library resources program.

(a) *Definitions in EDGAR.* The following terms used in this Part are defined in 34 CFR Part 77:

Acquisition	Grant
Applicant	Grant Period
Application	Nonprofit
Award	Private
Department	Public
EDGAR	Secretary
Fiscal Year	

(b) *Definitions that apply to this part.* The following definitions apply to this part:

"Acquisition" means the term as defined in EDGAR, 34 Part 77. For the purposes of this program it also includes cataloging and necessary first binding.

"Act" means the Higher Education Act of 1965, as amended.

"Branch" means a campus of an institution of higher education if that campus is—

(1) Located in a community in the United States different from that of the parent institution;

(2) Not within a reasonable commuting distance from the main campus; and

(3) Offering college level programs for which library facilities, services, and materials are necessary.

"Combination of institutions of higher education" means—

(1) Institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective; or

(2) A public or nonprofit private agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

"Expenditures for total library purposes" means expenditures for the maintenance and operation of libraries, including salaries, wages, supplies, materials, and equipment.

"Institution of higher education" means, in any State, an educational institution that—

(1) Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of that type of certificate;

(2) Is legally authorized within the State to provide a program of education beyond secondary education;

(3) Provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward a bachelor's degree;

(4) Is a public or nonprofit private institution; and

(5) Is accredited by a nationally recognized accrediting agency or association or, if not so accredited—

(i) Is an institution with respect to which the Secretary has determined that there is satisfactory assurance—considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards and the purpose for which this determination is being made—that the institution will meet the accreditation standards of a nationally recognized accrediting agency or association within a reasonable time; or

(ii) Is an institution whose credits are accepted, on transfer, by not fewer than three institutions that are so accredited for credit on the same basis as if transferred from an institution so accredited.

(6)(i) The term also includes any school that provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraphs (1), (2), (4), and (5) of this definition.

(ii) For purposes of this definition, the Secretary publishes a list of nationally recognized accrediting agencies or associations that the Secretary determines to be reliable authority as to the quality of training offered.

(7) The term also includes, in any State, a public or nonprofit private educational institution that, in lieu of the requirement in paragraph (1) of this definition, admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.

"Library institution" means an institution that is not part of an institution of higher education and whose primary function is to provide library and information services to institutions of higher education on a formal cooperative basis. An institution meets this requirement if—

(1) It demonstrates that it provides more than 50 percent of its library and information services to students, faculty, or other researchers at an institution of higher education; and

(2) It provides these services on a cooperative basis under a formal written agreement with one or more institutions of higher education.

"Library material expenditures" means—

(1) Expenditures for books, periodicals, documents, magnetic tapes, phonograph records, audio-visual materials, cataloging materials, and other printed and published materials that—

(i) Are suitable for inclusion in the library resources and law library resources of institutions of higher education and other eligible library institutions; and

(ii) With the exception of periodicals and newspapers, with reasonable care

and use may be expected to last for more than one year; and

(2) Expenditures for the necessary first binding of these printed and published materials, but not the acquisition of equipment or supplies, or the cost of construction.

"Network" means a cooperative organization formed to share library resources and to provide services—such as computer services and telecommunications—to its members. Its members may include institutions of higher education and public or nonprofit private library institutions.

"Resource Development Grant" means a grant made under Section 211 of the Act.

"State Agency" means the State agency designated under Section 1203 of the Act.

(20 U.S.C. 3474)

Subpart B—Kinds of Projects the Secretary Assists Under This Program

§ 773.10 Authorized activities.

(a) Funds awarded under this program may be used only—

(1) For the acquisition of books and other library materials; and

(2) To support the activities of a network, including, but not limited to, computer time, network membership; and user fees.

(b) Funds awarded under this program may not be used for—

(1) The acquisition of books and other library materials to be used primarily in connection with any medical library or similar facility that receives assistance in the same fiscal year for expanding or improving medical library resources under the Medical Library Assistance Act of 1965, as amended (42 U.S.C. 280b–7).

(2) Religious purposes. (See EDGAR, 34 CFR 75.532—"Use of funds for religion prohibited".)

(Sec. 211 of the Act; 20 U.S.C. 1029)

Subpart C—How To Apply for a Grant

§ 773.20 Limitations on number of applications.

An applicant may submit no more than one application in a fiscal year.

(Sec. 211 of the Act; 20 U.S.C. 1029)

§ 773.21 Application requirements.

In its application, an applicant shall:

(a) Provide information about itself and its library resources, and

(b)(1) Include an assurance that if it receives a grant under this program, it will meet the maintenance of effort requirement of § 773.40; or

(2) Request a waiver of the maintenance of effort requirement under § 773.22.

(20 U.S.C. 3474)

§ 773.22 Application for waiver of maintenance of effort.

(a) If an applicant requests a waiver of the maintenance of effort requirement in § 773.40, it shall provide in its application a detailed description of the circumstances that it believes justifies the request.

(b) If the Secretary determines that there are very unusual circumstances that prevent the applicant from making the assurance required in § 773.21(b), the Secretary may waive the maintenance of effort requirement.

(c) The Secretary may waive the maintenance of effort requirement because of very unusual circumstances that either—

(1) Temporarily reduce the level of library material expenditures and expenditures for total library purposes; or

(2) Result in unusually high library material expenditures and expenditures for total library purposes.

(d) Very unusual circumstances include:

(1) Theft, vandalism, fire, flood, earthquake, or other exceptional and unforeseen occurrences;

(2) The establishment of a basic program of library service in the first five years of institutional operation;

(3) Sudden and substantial increases in enrollment; or

(4) Sudden and substantial increases in activities (e.g., library materials expenditures) due to an unusual, one-time receipt of funds.

(Sec. 211 of the Act; 20 U.S.C. 1029)

§ 773.23 Application from a combination of institutions.

In the case of an application from a combination of institutions of higher education, the combination may apply for:

(a) Its own grant; and

(b) If its members do not apply on their own behalf, of each of its members.

For example, combination A is composed of three institutions of higher education, X, Y, and Z. The combination A may apply for one resource development grant for itself, and it may also apply for separate grants on behalf of X, Y, and Z. However, X, Y, and Z may not apply separately if the combination A applies on their behalf.

(Sec. 211 of the Act; 20 U.S.C. 1029)

Subpart D—How the Secretary Makes a Grant

§ 773.30 How the Secretary judges applications.

The Secretary awards a grant to each eligible applicant that demonstrates its compliance with the Act and these regulations.

(Sec. 211 of the Act; 20 U.S.C. 1029)

§ 773.31 Amount of grant.

(a) The amount of a resource development grant may not exceed $10,000 for any fiscal year.

(b) The Secretary determines the amount of a resource development grant annually by dividing the amount of available funds by the number of eligible applicants that demonstrate compliance with the Act and these regulations.

(Sec. 211 of the Act; 20 U.S.C. 1029)

Subpart E—Conditions That Must Be Met by Grantee

§ 773.40 Maintenance of effort requirement.

During the fiscal year for which it has requested a grant, a grantee shall expend for all library material expenditures an amount—from funds other than funds received under this program—that equals or exceeds either—

(a) The average annual aggregate amount it expended for those materials during the two fiscal years preceding the fiscal year for which it is seeking assistance; or

(b)(1) The average amount per full-time equivalent student it expended for those purposes during the two fiscal years preceding the fiscal year for which it is seeking assistance.

(2) For the purposes of this section, the number of full-time equivalent students means—

(i) The sum of the number of students enrolled full-time at an institution; plus

(ii) The full-time equivalent of the number of students enrolled part time at this institution. This is determined by dividing the sum of the credit hours of all part-time students by twelve.

(Sec. 211 of the Act; 20 U.S.C. 1029)

§ 773.41 Coordination with other groups.

A grantee under this part shall annually inform the State agency designated under section 1203 of the Act of its project activities.

(Sec. 202 of the Act; 20 U.S.C. 1022)

[FR Doc. 81-17953 Filed 6-16-81; 8:45 am]

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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/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
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.

Deadlines for Comments on Proposed Rules for the Week of June 21 through June 27, 1981

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

23264 4-24-81 / Bird importation; handling procedures; comments by 6-24-81

CIVIL AERONAUTICS BOARD

20563 4-6-81 / Liberalization of rules for indirect cargo air carriers; reply comments by 6-25-81

COMMERCE DEPARTMENT

Maritime Administration—

30507 6-9-81 / Merchant Marine training standards for State maritime academies and colleges; comments by 6-24-81.

National Oceanic and Atmospheric Administration—

30674 6-10-81 / Coastal Mirgratory Pelagics (Mackerel) Fishery Management Plan; comments by 6-26-81

COMMODITY FUTURES TRADING COMMISSION

23469 4-27-81 / Grant, offer and sale of options on physical commodities; comments by 6-26-81

DEFENSE DEPARTMENT

Army Department—

28446 5-27-81 / Personal privacy and rights of individuals regarding personal records; comments by 6-26-81

ENVIRONMENTAL PROTECTION AGENCY

27972 5-22-81 / Approval and promulgation of state implementation plans; Kansas; comments by 6-22-81

27973 5-22-81 / 2-Chloroallyldiethyldithiocarbamate; proposed tolerance; comments by 6-22-81

26796 5-15-81 / Oklahoma Corporation Commission; underground injection control; primacy application; comments by 6-22-81

28179 5-26-81 / Promulgation of Michigan State Implementation plan; comments by 6-24-81

27974 5-22-81 / S-Propyl Dipropylthiocarbamate; proposed tolerance; comments by 6-22-81

27975 5-22-81 / Trifluralin; proposed tolerance; comments by 6-22-81

27132 5-18-81 / Virginia application for Interim Authorization, Phase I; Hazardous Waste Management Program; comments by 6-24-81

FEDERAL COMMUNICATIONS COMMISSION

27729 5-21-81 / Amendment of the Commission's rules to expand the use of Digital Voice Modulation generally to the Private Land Mobile Radio Services; comments by 6-22-81

26509 5-13-81 / FM broadcast station in Ansley, Ala., change in table of assignments; reply comments extended to 6-24-81

[*See also* 46 FR 17809, 3-20-81]

22006 4-15-81 / FM broadcast station in Bay City, Tex., proposed changes in table of assignments; reply comments by 6-22-81

22088 6-1-81 / FM broadcast stations in Beaumont, Lake Jackson and Port Lavaca, Tex., proposed changes in table of assignments; reply comments by 6-22-81

25662 5-8-81 / FM broadcast stations in Christiansted, and Fredericksted, Virgin Islands; changes in table of assignments; comments by 6-22-81

25488 5-7-81 / FM broadcast station in Deer Park, Wash.; proposed changes in table of assignments; comments by 6-22-81

22769 4-21-81 / FM broadcast station in Freeport, Texas; changes in table of assignments; reply comments by 6-22-81

22770 4-21-81 / FM broadcast station in Lockhart, Texas; changes in table of assignments; reply comments by 6-22-81

22400 4-17-81 / FM broadcast stations in Montpelier, Stowe, Vergennes, and Waterbury, Vermont, and Marich and Port Henry, N.Y.; changes in table of assignments; reply comments by 6-22-81

25489 5-7-81 / FM broadcast station in Sonora, Calif.; proposed changes in table of assignments; comments by 6-22-81

28457 5-27-81 / Pleading cycle on Computer and Business Equipment Manufacturers Association (CBEMA) petition for policy ruling on AT&T offering of new CPE (customer-premises equipment); filed under Federal tariff filed after second computer inquiry final decision; comments by 6-26-81

22624 4-20-81 / Talk-around in Private Land Mobile Radio Services on shared conventional channels above specific frequency band; reply comments by 6-24-81

[Corrected at 46 FR 23275, 4-24-81]

25487 5-7-81 / TV Broadcast station in Roanoke, Va.; proposed changes in table of assignments; comments by 6-22-81

FEDERAL TRADE COMMISSION

29256 6-1-81 / Trade regulation rule; labeling and advertising of home insulation; comments by 6-22-81

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

18992 3-27-81 / Irradiated foods; procedures for regulation in foods for human consumption; comments by 6-25-81

Office of the Secretary—

29732 6-3-81 / Child Day Care Services; Postponement of regulations and requirement that applicable State and local standards be met for Federal funding; comments by 6-24-81

23273 4-24-81 / Public and medical assistance; time limits for States to file claims; comments by 6-23-81

INTERIOR DEPARTMENT

National Park Service—

27970 5-22-81 / Everglades National Park; use of air boats; comments by 6-22-81

INTERSTATE COMMERCE COMMISSION

28457 5-27-81 / Rail carrier informational State tariff filings; comments by 6-26-81

POSTAL SERVICE

27970 5-22-81 / Facing identification marks on official mail; comments by 6-22-81

TRANSPORTATION DEPARTMENT

Coast Guard—

29288 6-1-81 / Lake Washington, Wash.; establishment of area of controlled navigation; comments by 6-22-81

Deadlines for Comments on Proposed Rules for the Week of June 28 through July 4, 1981

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

30645 6-10-81 / Classification of dipped seedless, and oleate and related seedless, raisins as separate varietal types; comments by 6-30-81

Animal and Plant Health Inspection Service—

23914 4-29-81 / Gypsy moth regulated areas; comments by 6-29-81

24930 5-4-81 / Procedures for importation of a single shipment of water buffalo from Trinidad into the U.S. through the Harry S. Truman Animal Import Center; (final rule); comments by 7-1-81

23754 4-28-81 / Texas (splenetic) fever in cattle; comments by 6-29-81

Food and Nutrition Service—

64068 9-26-81 / School lunch program and State administrative expense funds; assessment, improvement, and monitoring system; comments by 6-30-81

Food Safety and Quality Service—

23751 4-28-81 / Standards for grades of Gladiolus Corms (bulbs); comments by 6-29-81

[Corrected at 46 FR 26787, 5-15-81]

CIVIL AERONAUTICS BOARD

21185 4-9-81 / Air carriers; amendment of fuel cost and consumption reporting provisions; reply comments by 6-29-81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

27501 5-28-81 / Availability of draft technical support document for environmental requirements for licensing ocean thermal energy conversion facilities and plantships; comments by 6-30-81

23924 4-29-81 / Channel Islands and Point Reyes-Farallon Islands National Marine Sanctuaries; partial suspension of regulations; comments by 6-30-81

COMMODITY FUTURES TRADING COMMISSION

23941 4-29-81 / Proposed definitions of "small entities" for purposes of the Regulatory Flexibility Act; comments by 6-29-81

DEFENSE DEPARTMENT

Defense Investigative Service—

29486 6-2-81 / Privacy Act; implementation; comments by 7-2-81

ENVIRONMENTAL PROTECTION AGENCY

29289 6-1-81 / Approval and promulgation of implementation plans; Mass.; comments by 7-1-81

29291 6-1-81 / Designation of areas for air quality planning purposes; attainment status designations; Wisc.; comments by 7-1-81

27314 5-18-81 / Grants for construction of treatment works; comments by 7-2-81

28871 5-29-81 / Proposed revision of the Maryland State Implementation Plan; comments by 6-29-81

28872 5-29-81 / State of Texas; ozone attainment designation for McLennan County; comments by 6-29-81

FEDERAL COMMUNICATIONS COMMISSION

27506 5-20-81 / Digital communications protocols; reply comments period extended to 7-1-81

[*See also* 45 FR 84140, 12-8-80]

30372 6-8-81 / FM broadcast stations in Beaumont, Lake Jackson and Port Lavaca, Texas; reply comments extended to 7-1-81

[*See also* 46 FR 22008, 4-15-80]

23498 4-27-81 / FM broadcast station in Brownsville, Edinburg, Harlingen, Raymondville, Rio Grande City, Texas; changes in table of assignments; reply comments by 6-29-81

26513 5-13-81 / FM broadcast station in Coxsackie, N.Y., proposed changes in table of assignments; comments by 6-30-81

26509 5-13-81 / FM broadcast station in Delta, Colo., proposed changes in table of assignments; comments by 6-30-81

23496 4-27-81 / FM broadcast station in Gurdon, Arkansas; changes in table of assignments; reply comments by 6-29-81

31029 6-12-81 / FM broadcast station in Lockhart, Tex.; reply comments extended to 7-1-81

[Originally published at 46 FR 22770, 4-21-81]

23497 4-27-81 / FM broadcast station in Milan, Georgia; changes in table of assignments; reply comments by 6-29-81

26514 5-13-81 / FM broadcast station in Minot, N. Dak.; proposed changes in table of assignments; comments by 6-30-81

26511 5-13-81 / FM broadcast station in Sandpoint, Idaho, proposed changes in table of assignments; comments by 6-30-81

23774 4–28–81 / FM broadcast station; Weed, Co.; proposed change in table of assignments; reply comments by 6–29–81

30124 6–5–81 / Inquiry into the development of regulatory policy in regard to Interim Direct Broadcast Satellite Service; comments by 7–1–81

23956 4–29–81 / Inquiry relating to preparations for 1983 Region 2 Administrative Radio Conference on Broadcasting—Satellite Service and inquiry into the development of regulatory policy with regard to direct broadcast satellites; reply comments by 6–30–81

21397 4–10–81 / Radio service; sharing of certain frequencies by The Forest Products Radio Service; reply comments by 6–29–81

FEDERAL DEPOSIT INSURANCE CORPORATION

28660 5–28–81 / NOW account eligibility; comments by 6–29–81

GENERAL ACCOUNTING OFFICE

23939 4–29–81 / Collecting debts by offset; comments by 6–29–81

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

23766 4–28–81 / Menstrual tampons; user labeling; comments by 6–29–81

[Originally published at 45 FR 69840, 10–21–80]

INTERIOR DEPARTMENT

Fish and Wildlife Service—

24607 5–1–81 / American alligators in Louisiana; change in legal status as an endangered or threatened species; comments by 6–30–81

28881 5–29–81 / Deletion of the permit requirement to import or export migratory birds; comments by 6–29–81

28192 5–26–81 / Export of American alligator and American ginseng taken in 1981–82 season; comments by 7–1–81

14652 2–27–81 / Wildlife classified as endangered or threatened in 1975 and 1976; review; comments by 6–29–81

Geological Survey—

26661 5–14–81 / Proposed revision and updating of provisions for formation and operation of Federal oil and gas units; comments by 6–29–81

National Park Service—

28846 5–29–81 / Glacier Bay small boat entry level; effective date; comments by 6–30–81

INTERSTATE COMMERCE COMMISSION

30156 6–5–81 / Standards for determining commuter rail service; continuation subsidies; comments by 7–3–81

JUSTICE DEPARTMENT

23939 4–29–81 / Collecting debts by offset; comments by 6–29–81

Drug Enforcement Administration—

23953 4–29–81 / Schedules of controlled substances; proposed placement of halazepam, alprazolam and triazolam into Schedule IV; comments by 6–29–81

LABOR DEPARTMENT

Employment Standards Administration—

29485 6–2–81 / Employment of homeworkers in certain industries; comments extended to 7–4–81

[Originally published at 46 FR 25108; 5–5–81]

12213 2–13–81 / Labor standards for Registration of Apprenticeship program; list of occupations meeting criteria; comments by 6–30–81

[Originally published at 45 FR 15571, 3–11–80]

Occupational Safety and Health Administration—

21368 4–10–81 / Conveyor standards comment period extended to 6–30–81

[*See also* 39 FR 19507, 6–3–74; 45 FR 75238, 11–14–80; 46 FR 39116, 1–16–81; and 46 FR 25653, 5–8–81]

NATIONAL CREDIT UNION ADMINISTRATION

29248 6–1–81 / Regulatory development; policy statement; comments by 7–1–81

NUCLEAR REGULATORY COMMISSION

30349 6–8–81 / Rules of practice for domestic licensing proceedings; modifications to the NRC hearing process; comments by 6–29–81

POSTAL SERVICE

35 1–2–81 / Third-class carrier route presort; comments extended to 7–1–81

[Originally published at 45 FR 79804, 12–2–80; corrected at 45 FR 81563, 12–11–80]

SECURITIES AND EXCHANGE COMMISSION

23942 4–29–81 / Regulatory flexibility agenda for purposes of the Regulatory Flexibility Act; comments by 6–30–81

TRANSPORTATION DEPARTMENT

Coast Guard—

26661 5–14–81 / Amendment of inland navigation rules on certificates of alternative compliance; comments by 6–29–81

27128 5–18–81 / Exemption from barge lighting requirements; Cumberland River; comments by 7–2–81

Office of the Secretary—

23500 4–27–81 / Relocation of boundary between eastern and central time in State of Indiana in order to move Starke County from central to eastern time; comments by 6–30–81

TREASURY DEPARTMENT

Customs Service—

23952 4–29–81 / Illegal discharge of oil and the pollution of coastal waters; comments by 6–29–81

Internal Revenue Service—

24595 5–1–81 / Employment taxes; sick pay, voluntary withholding; comments by 6–30–81

24595 5–1–81 / Excise taxes, windfall profit tax on domestic crude oil; changes in application of Energy Department regulations; comments by 6–30–81

New Week's Meetings:

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

29296 6–1–81 / Flue-Cured Tobacco Advisory Committee, Raleigh, N.C. (open), 6–26–81

Forest Service—

24219 4–30–81 / Pacific Crest National Scenic Trail Advisory Council, Mt. Shasta, Calif. (open), 6–25–81

CIVIL RIGHTS COMMISSION

31040 6–12–81 / Ohio Advisory Committee, Cincinnati, Ohio (open), 6–27–81

30841 6–11–81 / Texas Advisory Committee, San Antonio, Tex. (open), 6–26–81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

30679 6–10–81 / New England Fishery Management Council, Darvers, Mass. (open), 6–30 and 7–1–81

29739 6–3–81 / New England Fishery Management Council, Scientific and Statistical Committee, Boothbay Harbor, Maine (open), 6–24–81

28693 5–28–81 / Regional Fishery Management Councils; Chairpersons and Executive Directors; Hommer, Alaska (open), 6–21–81 through 6–24–81

DEFENSE DEPARTMENT

Air Force Department—

27747 5–21–81 / USAF Scientific Advisory Board, Woods Hole, Mass. (closed), 6–22 through 7–2–81

Navy Department—

30382 6–8–81 / Chief of Naval Operations Executive Panel Advisory Committee, Science and Technology Subpanel, Alexandria Va. (closed), 6–23 and 6–24–81

Office of the Secretary—

26521 5-13-81 / DOD Advisory Group on Election Devices Advisory Committee, Toteta, Calif. (closed), 6-25-81

22025 4-15-81 / Defense Intelligence Agency Advisory Committee, Soviet naval trends, Rosslyn, Va. (closed), 6-23 and 6-24-81

27747 5-21-81 / Defense Science Board Review on MX Missile Basing, Washington, D.C. (closed), 6-25 through 6-27-81

22923 4-22-81 / Wage Committee, Washington, D.C. (closed), 6-23-81

EDUCATION DEPARTMENT

30383 6-8-81 / Ethnic Heritage Studies National Advisory Council, Washington, D.C. (open), 6-24-81 through 6-26-81

FEDERAL COMMUNICATIONS COMMISSION

28010 5-22-81 / Procedures and Practices on Mobile Services Division, Washington, D.C. (open), 6-22-81

FEDERAL RESERVE SYSTEM

29333 6-1-81 / Federal Reserve Board, Midland Bank, bank holding company application, San Francisco, Calif., 6-22-81

GENERAL SERVICES ADMINISTRATION

Office of the Federal Register—

30701 6-10-81 / Basic Building Code, Hartford, Conn. (open), 6-22 through 6-26-81

HEALTH AND HUMAN SERVICES DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

26695 5-14-81 / Advisory Committees, Washington, D.C. and various cities in Maryland (partially open), 6-22 through 6-27-81

28011 5-22-81 / Interagency Committee on Federal Activities for Alcohol Abuse and Alcoholism, Washington, D.C. (open), 6-23-81

30702 6-10-81 / Disease Control Centers—health and safety effects of cold stress, Cincinnati, Ohio (open), 6-26-81

Food and Drug Administration—

30567 6-9-81 / Consumer Exchange Meeting, Philadelphia, Pa. (open) 6-25-81

26869 5-15-81 / Oncologic Drugs Advisory Committee, Rockville, Md. (open), 6-25-81

National Institutes of Health—

24300 4-30-81 / Aging Review Committee, Bethesda, Md. (open), 6-25 and 6-26-81

28016 5-22-81 / Board of Scientific Counselors, National Institute of Child Health and Human Development, Bethesda, Md. (partially open), 6-24-81

28016 5-22-81 / Cancer Clinical Investigation Review Committee, National Cancer Institute, Bethesda, Md. (partially open), 6-22 and 6-23-81

28017 5-22-81 / Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, Washington, D.C. (partially open), 6-21 and 6-22-81

28017 5-22-81 / General Research Support Review Committee, Division of Research Resources, Bethesda, Md. (partially open), 6-25 and 6-26-81

18069 3-23-81 / Mandatory retirement age for commercial airline pilots; report; meeting, Bethesda, Md. (open), 6-22 and 6-23-81

28018 5-22-81 / Maternal and Child Health Research Committee, National Institute of Child Health and Human Development, Bethesda, Md. (partially open), 6-23 and 6-24-81

28018 5-22-81 / Mental Retardation Research Committee, National Institute of Child Health and Human Development, Bethesda, Md. (partially open), 6-25 and 6-26-81

29336 6-1-81 / National Institute of Dental Research Special Grants Review Committee, Bethesda, Md. (partially open), 6-23-81

28019 5-22-81 / Population Research Committee, National Institute of Child Health and Human Development, Bethesda, Md. (partially open), 6-25 and 6-26-81

24712 5-1-81 / Research Grants Division, Behavioral & Neurosciences C Study Section, Bethesda, Md. (partially open) 6-23-81

24712 5-1-81 / Research Grants Division, Bio-Organic & Natural Products Chemistry Study Section, Bethesda, Md. (partially open), 6-25 through 6-27-81

24712 5-1-81 / Research Grants Division, Cardiovascular & Pulmonary Study Section, Gaithersburg, Md. (partially open), 6-24 through 6-26-81

24712 5-1-81 / Research Grants Division, General Medicine B Study Section, Georgetown, Washington, D.C. (partially open), 6-24- through 6-27-81

24712 5-1-81 / Research Grants Division, Metallobiochemistry Study Section, Rosslyn, Va. (partially open), 6-25 through 6-27-81

24712 5-1-81 / Research Grants Division, Neurology B Study Section, Washington, D.C. (partially open), 6-24 through 6-27-81

24712 5-1-51 / Research Grants Division, Physiological Chemistry Study Section, Rosslyn, Va. (partially open), 6-25 through 6-27-81

24712 5-1-81 / Research Grants Division, Radiation Study Section, Chevy Chase, Md. (partially open), 6-22 through 6-24-81

24712 5-1-81 / Research Grants Division, Toxicology Study Section, Washington, D.C. (partially open), 6-22 through 6-24-81

31076 6-12-81 / Research Manpower Review Committee, Bethesda, Md. (partially open), 6-22-81

28020 5-22-81 / Vision Research Program Committee, National Eye Institute, Bethesda, Md. (partially open), 6-25-81

Public Health Service—

26873 5-15-81 / National Toxicology Program Board of Scientific Counselors, Research Triangle Park, N.C. (open), 6-23-81

INTERIOR DEPARTMENT

Land Management Bureau—

28022 5-22-81 / California; Willow Creek Grazing Management Plan; intent to prepare an environmental impact statement, Susanville, Calif. (open), 6-24-81

27771 5-21-81 / Cedar City District Multiple Use Advisory Council, Cedar City, Utah (open), 6-22-81

30707 6-10-81 / Cuyahoga Valley National Recreation Area Advisory Commission, Peninsula, Ohio (open), 6-25-81

27563 5-20-81 / Intergovernmental Planning Program, South Atlantic Regional Technical Working Group, New Orleans, La. (open), 6-25-81

27770 5-21-81 / Lakeview District Advisory Council, Lakeview, Oreg. (open), 6-23-81

27773 5-21-81 / Montrose District Advisory Council, Cortez, Colo. (open), 6-23 and 6-24-81

28959 5-29-81 / Outer Continental Shelf Advisory Board, Alaska Regional Technical Working Group, Anchorage, Alaska (open), 6-24 and 6-25-81

27774 5-21-81 / Socorro District Advisory Council, Socorro, N. Mex. (open), 6-24-81

National Park Service—

29339 6-1-81 / Lewis and Clark National Historic Advisory Council, Omaha, Nebr. (open), 6-17-81 and Portland, Oreg., 6-24-81

29771 6-3-81 / Upper Delaware Citizens Advisory Council, Narrowsburg, N.Y. (open), 6-26-81

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development—

30735 6-10-81 / International Food and Agricultural Development Board, Washington, D.C. (open), 6-25-81

INTERSTATE COMMERCE COMMISSION

30215 6-5-81 / Tongue River Railroad Line Construction, Ashland, Mt., (open), 6-23-81 and Broadus, Mt., (open), 6-23-81

NATIONAL SCIENCE FOUNDATION

28052 5-22-81 / Special Research Equipment Advisory Committee, Chemistry Subcommittee, Washington, D.C. (closed), 6-24 and 6-25-81

NUCLEAR REGULATORY COMMISSION

30434 6-8-81 / Reactor Safeguards Advisory Committee, Washington, D.C. (Open), 6-25 and 6-26-81

25576 5-7-81 / Reactor Safeguards Advisory Committee, Advanced Reactors Subcommittee, Des Plaines, Ill. (open), rescheduled from 5-14 and 5-15-81 to 6-22 and 6-23-81

[*See also* 46 FR 24046, 4-29-81]

30222 6-5-81 / Reactor Safeguards Advisory Committee, Advanced Reactors Subcommittee, Park Ridge, Ill. (partially open), 6-22 and 6-23-81

30433 6-8-81 / Reactor Safeguards Advisory Committee, Class-9 Accidents Subcommittee, Washington, D.C. (open), 6-24-81

30434 6-8-81 / Reactor Safeguards Advisory Committee, Emergency Core Cooling Systems Subcommittee, Idaho Falls, Idaho (partially open), 6-23 and 6-24-81

22508 4-17-81 / Reactor Safeguards Advisory Committee, Three Mile Island Unit 1 Subcommittee, Washington, D.C. (open), 6-25 and 6-26-81

[*See also* 46 FR 20810, 4-7-81]

30222 6-5-81 / Reactor Safeguards Advisory Committee, Waste Management and Reactor Radiological Effects Joint Subcommittee, Washington, D.C. (partially open), 6-22 and 6-23-81

STATE DEPARTMENT

28779 5-28-81 / Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open) 6-23-81

TRANSPORTATION DEPARTMENT

Coast Guard—

29370 6-8-81 / New York Vessel Traffic Service Advisory Committee, New York, N.Y. (open), 6-24-81

National Highway Traffic Safety Administration—

7123 1-22-81 / Safety Standards International Harmonization; Construction of Vehicle, Group of Experts on Sixty-four session; Geneva, Switzerland, 6-22 through 6-26-81

VETERANS ADMINISTRATION

29581 6-2-81 / Special Medical Advisory Group, Washington, D.C. (open), 6-24 and 6-25-81

16174 3-11-81 / Wage Committee, Washington, D.C. (closed), 6-25-81

Next Week's Public Hearings

COMMERCE DEPARTMENT

Foreign-Trade Zones Board—

27980 5-22-81 / Baltimore/Washington International Airport, Baltimore/Washington Airport, 6-25-81

National Oceanic and Atmospheric Administration—

29733 6-3-81 / Gulf of Mexico Fishery Management Council; Amendment No. 1 to the fishery management plan (FMP) for the shrimp fishery of the Gulf of Mexico, Corpus Christi, Texas; 6-22-81 and Fort Myers, Fla., 6-23-81

30674 South Atlantic Fishery Management Council, Greenville, N.C., 6-24; Savannah, Ga., 6-24; Charleston, S.C., 6-25 and Palm Beach Gardens, Fla., 6-25-81

DEFENSE DEPARTMENT

Navy Department—

19969 4-2-81 / Naval Discharge Review Board, San Diego, Calif. 6-21 through 6-27-81

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

22809 4-21-81 / GRAS review of activated carbon (charcoal), bioflavonoids, shellac and shellac wax, and smoke flavoring solutions and smoked yeast flavoring, Bethesda, Md., 6-22-81

INTERNATIONAL TRADE COMMISSION

16162 3-11-81 / Certain tobacco, Washington, D.C., 6-24-81

[Changed at 46 FR 24035, 4-29-81]

POSTAL RATE COMMISSION

27210 Attached Mail Proceeding, Washington, D.C., 6-25-81

TREASURY DEPARTMENT

Internal Revenue Service—

18998 3-27-81 / Investment credit for single purpose agricultural or horticultural structures, Washington, D.C., 6-25-81

[*See also* 46 FR 7397, 1-23-81]

VETERANS ADMINISTRATION

27224 5-18-81 / Station Committee on Education Allowances, Montgomery, Ala., 6-22-81

List of Public Laws

Last Listing June 10, 1981

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S.J. Res. 50 / Pub. L. 97-13 Designating July 17, 1981, as "National P.O.W.-M.I.A. Recognition Day". (Jun. 12, 1981; 95 Stat. 97) Price $1.50.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

APPLICATIONS DEADLINES

30843 6-11-81 / Commerce/MBDA—Financial assistance application announcement; apply by 7-17-81

31043 6-12-81 / ED—Law School Clinical Experience Program; apply by 7-24-81

30895 6-11-81 / HHS/SSA—Income maintenance research and demonstrations; community work experience projects; availability of grants; apply by 7-31-81

30593 6-9-81 / Justice/NIJ—Fellowships for research and writing of doctoral dissertation in the area of criminal justice; apply by 10-31-81 for first cycle; apply between 10-31-81 and 3-2-82 for second cycle

MEETINGS

31076 6-12-81 / HHS/NIH—Cellular and Molecular Basis of Disease Review Committee, Chevy Chase, Md. (partially open), 6-29 and 6-30-81

31076 6-12-81 / HHS/NIH—Research Manpower Review Committee, Bethesda, Md. (partially open), 6-22-81

OTHER ITEMS OF INTEREST

30476 6-8-81 / EPA—Protest of grantee procurement actions under grants for construction of publicly owned treatment works; Subject index list of Regional Administrator protest determinations issued during 1980

30702 6-10-81 / HHS/ADAMHA—Cooperative agreement to support a Uniform Health Program Reporting System for Comprehensive Public Health Services; availability of FY 1981 funds

30500 6-9-81 / HHS/Sec'y—Administration of grants; implementation of cost principles for nonprofit organizations and amendments to property rules, effective 7-9-81



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