AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

5-26-82
Vol. 47 No. 102
Pages 22931-23134

federal register

Wednesday
May 26, 1982

348-329
G.S.A.
Item 5

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Authority Delegations (Government Agencies)
Agriculture Department

Coal Mining
Surface Mining Reclamation and Enforcement Office

Credit Unions
National Credit Union Administration

Electric Utilities
Federal Energy Regulatory Commission

Exports
International Trade Administration

Income Taxes
Internal Revenue Service

Milk Marketing Orders
Agricultural Marketing Service

Natural Gas
Federal Energy Regulatory Commission

Old-Age, Survivors and Disability Insurance
Social Security Administration

Organization and Functions (Government Agencies)
Customs Service

Penalties
Internal Revenue Service

Pesticides and Pests
Environmental Protection Agency

CONTINUED INSIDE

Selected Subjects

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.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

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

Public Lands
Land Management Bureau

Radio Broadcasting
Federal Communications Commission

Radio Telephone
Federal Communications Commission

Railroads
Interstate Commerce Commission

Television
Federal Communications Commission

Editor's Note:

The list of subjects on the cover is designed to assist those users who review the **Federal Register** for broad subject areas. The list is compiled from subject terms supplied by agencies for certain of their rule and proposed rule documents as required by 1 CFR 18.20. Subject terms in the list may refer to more than one document. To locate the documents in the **Federal Register** covered by the subject terms in the list, users should consult the Table of Contents under the appropriate agency. We remind users that the list is a selective supplement to the Table of Contents and should not be construed as comprehensive.

This list is an experiment. We hope it will prove useful to those users inconvenienced by the discontinuation of the "Highlights" in February because of reduced personnel resources at the Office of the Federal Register. For this new list our editors simply select subject terms from those appearing in the edition's rule and proposed rule documents rather than perform the detailed analytical work which was needed to produce the "Highlights".

Comments on this list may be sent to Martha Girard, Director, Executive Agencies Division (NFE), Office of the Federal Register, NARS/GSA, Washington, D.C. 20408. Phone (202) 523–5240 (not a toll free number).

Contents

Federal Register
Vol. 47, No. 102
Wednesday, May 26, 1982

The President
EXECUTIVE ORDERS
22933 Foreign assistance and arms control (EO 12365)
22931 Management Intern Program, Presidential (EO 12364)

Executive Agencies

Agricultural Marketing Service
RULES
Milk marketing orders:
22938 Eastern Colorado
22937 Oregon-Washington

Agriculture Department
See also Agricultural Marketing Service.
RULES
Authority delegations by Secretary and General Officers:
22936 Marketing and Inspection Services, Assistant Secretary, et al.; Federal Plant Pest Act functions
22935 Marketing and Inspection Services, Assistant Secretary, et al.; Lacy Act Amendments of 1981 functions
NOTICES
22990 Agency forms submitted to OMB for review

Civil Aeronautics Board
NOTICES
22990 Airline employee protection program
Hearings, etc.:
22995 Samoa Airlines, Inc.; fitness investigation

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
22995 Nevada (2 documents)

Commerce Department
See International Trade Administration; National Oceanic and Atmospheric Administration.

Copyright Office, Library of Congress
NOTICES
23061 Rights of creators and needs of users of works reproduced by certain libraries and archives; final comment period and report availability

Customs Service
PROPOSED RULES
Organization and functions; field organizations; ports of entry, etc.:
22964 Bridgeport, Conn. and Providence, R.I.; consolidation under Boston, Mass. District
NOTICES
23065 Tariff classification of imported printing mechanisms; proposed correction; inquiry

Defense Department
NOTICES
Meetings:
23001 Electron Devices Advisory Group (2 documents)
23001 Joint Strategic Target Planning Staff Scientific Advisory Group
23001 Science Board task forces; agenda change

Economic Regulatory Administration
NOTICES
Consent orders:
23004 Williams Exploration Co.
Remedial orders:
23004 Cabrillo Arco et al.

Education Department
NOTICES
Grantback arrangements; award of funds:
23002 District of Columbia

Energy Department
See also Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
23003 European Atomic Energy Community and Sweden
23003 Switzerland and European Atomic Energy Community

Energy Information Administration
NOTICES
23106 Reporting and recordkeeping requirements

Environmental Protection Agency
RULES
Air programs; approval and promulgation; State plans for designated facilities and pollutants:
22955 Kentucky
Air quality implementation plans; approval and promulgation; various States, etc.:
22954 Nebraska
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
22957 Nitrapyrin
Pesticides; tolerances in food:
22949 Chlorothalonil
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
22976 Indiana
22978 New Hampshire
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
22980 Benomyl
22982 Malathion, etc.
22981 Methyl parathion
NOTICES
Pesticide, Food and Feed additive petitions:
23020 Ciba-Geigy Corp. et al.
23023 Oregon Agriculture Department
Pesticides; temporary tolerances:
23020 Chlorothalonil

23021 EM Industries, Inc.
23022 Pendimethalin
Toxic and hazardous substances control:
23021 Premanufacture notification requirements; test marketing exemption applications

Federal Communications Commission
RULES
Common carrier services:
22958 Satellite service, domestic fixed; space station applications, processing procedure
Radio services, special:
22962 Maritime services; Vessel Traffic Service (VTS) communications; exclusive availability of frequency band in Houston VTS radio protected area
Radio stations; table of assignments:
22959 Arkansas and Mississippi
22960 Iowa
22961 North Dakota
PROPOSED RULES
Radio stations; table of assignments:
22987 Texas
Television stations; table of assignments:
22988 Iowa
22985 Montana

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act; ceiling prices for high cost natural gas produced from tight formations; various States:
22946 New Mexico
Public Utility Regulatory Policies Act:
22947 Cost of services and load data; extension for initial filing
NOTICES
Hearings, etc.:
23005 American Municipal Power-Ohio, Inc., et al.
23007 Appalachian Power Co.
23007 Boston Edison Co.
23008 Carolina Power & Light Co.
23007 CMC Energy, Inc.
23010 Foster, Margery Somers
23008, 23009 Hydro Development Group, Inc. (2 documents)
23009 Illinois Power Co.
23009 Indiana & Michigan Electric Co.
23010 Lewis County Public Utility District No. 1
23011 North Carolina Electric Membership Corp.
23011, 23012 Pacific Gas & Electric Co. (2 documents)
23012 Siskiyou County Flood Control & Water Conservation District
23013 Southeastern Hydro-Power, Inc., et al.
23014 Transwestern Pipeline Co.
NOTICES
23067 Meetings; Sunshine Act

Federal Home Loan Bank Board
NOTICES
23067 Meetings; Sunshine Act

Federal Labor Relations Authority
RULES
Organization and functions:
22935 Regional offices; New York location changes

Federal Reserve System
NOTICES
Bank holding companies; proposed de novo nonbank activities:
23023 Ramapo Financial Corp.
23067 Meetings; Sunshine Act

Federal Service Impasses Panel
RULES
Organization and functions:
22935 Regional offices; New York, location changes

Fish and Wildlife Service
NOTICES
23025 Marine mammal permit applications (2 documents)

General Services Administration
NOTICES
Meetings:
23023 Advisory Board

Health and Human Services Department
See Health Resources Administration; National Institutes of Health; Public Health Service; Social Security Administration.

Health Resources Administration
NOTICES
Meetings; advisory committees:
23023 July

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
23014 Cases filed
23015 Special refund procedures; implementation and inquiry

Housing and Urban Development Department
NOTICES
Authority delegations:
23024 Assistant Secretary for Housing, Federal Housing Commissioner; reject, modify or suspend dispositions authorized by Property Disposition Committee; correction

Interior Department
See Fish and Wildlife Service; Land Management Bureau; Surface Mining Reclamation and Enforcement Office.

Internal Revenue Service
PROPOSED RULES
Income taxes:
22966 Industrial development bonds for residential rental housing
Procedure and administration:
22970 Deposits and overstated deposit claims; penalties for underpayment

International Trade Administration
RULES
Export licensing:
22946 Commodity control list; exports of capacitors footnote removed, and lithium decontrol
22945 Commodity policies and provisions, special; clarification

22944 Distribution license, additional nuclear restrictions; interim
22941 License application; simplification and clarification
22945 Permissive reexports under General License (GLV)
NOTICES
Antidumping:
22999 Steel pipes and tubes from Japan; postponement
Organization, functions, and authority delegations:
22996 International Economic Policy, Assistant Secretary
22996 International Trade, Deputy Under Secretary

International Trade Commission
NOTICES
23046 Agency forms submitted to OMB for review (2 documents)
Import investigations:
23048 Chlorine from Canada
23047 Coin-operated audiovisual games and components (Pac-Man and Rally-X)
23047 Fall-harvested fresh white or Irish potatoes in selected markets; competitive status of major supply regions
23053 Fireplace mesh panels from Taiwan
23047 Miniature, battery-operated, all-terrain, wheeled vehicles
23055 Molasses from France
23055 Motor vehicles and equipment, chemicals, including pharmaceuticals, and office and computing machines; impact of foreign trade-related performance requirements on U.S. industry and foreign investment abroad
23047 Steel rod treating apparatus and components
23057 Sugar from European Communities

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
22963 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; track use by various railroads
NOTICES
Motor carriers:
23028 Agricultural cooperative transportation; filing notices
23028 Finance applications
23030, 23034 Permanent authority applications (2 documents)
23033 Permanent authority applications; correction
23028 Permanent authority applications; restriction removals
23031 Temporary authority applications
Rerouting of traffic:
23046 All railroads

Justice Department
See Parole Commission.

Labor Department
See Occupational Safety and Health Administration.

Land Management Bureau
RULES
Recreation management:
23102 National trails system; motorized vehicle use, etc.
NOTICES
Environmental concerns; designation of critical areas:
23026 Henry Mountain Resource Area, Utah
Withdrawal and reservation of lands, proposed, etc.:
23026 Idaho; termination

Legal Services Corporation
NOTICES
23067 Meetings; Sunshine Act

Library of Congress
See Copyright Office, Library of Congress.

National Credit Union Administration
RULES
22939 Charter suspension or revocation, and involuntary liquidation procedures
PROPOSED RULES
22964 Liquidity reserve requirements deregulation

National Institutes of Health
NOTICES
Meetings:
23110 Recombinant DNA Advisory Committee
Recombinant DNA molecules research:
23110 Actions under guidelines, proposed

National Oceanic and Atmospheric Administration
NOTICES
Marine mammal permit applications, etc.:
22999 Dorsey, Eleanor M.
23025 Envirosphere Co.
22999 Tel-Aviv Dolphinarium Ltd.

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
23063 Arkansas Power & Light Co.
23063 Combustion Engineering, Inc.
23064 Commonwealth Edison Co.
23064 Virginia Electric & Power Co.
23063 Export license applications for nuclear facilities or materials
Meetings:
23062 Reactor Safeguards Advisory Committee
23064 Reactor Safeguards Advisory Committee cancellation

Occupational Safety and Health Administration
PROPOSED RULES
Health and safety standards:
22972 Educational/scientific diving; inapplicability of commercial diving operating regulations; extension of time and hearing

Parole Commission
PROPOSED RULES
Federal prisoners; paroling, recommitting, and supervising:
22972 Appellate hearings; elimination of oral presentations in certain cases, etc.; correction

Postal Rate Commission
NOTICES
23067 Meetings; Sunshine Act

Public Health Service
NOTICES
Organization, functions, and authority delegations:
23024 National Institutes of Health, National Cancer Institute

Social Security Administration
PROPOSED RULES
Social security benefits:
22965 Annual earnings test

State Department
NOTICES
Bridge permits, applications:
23064 Vanceboro, Maine and St. Croix, New Brunswick, Canada

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program submission; various States:
22950 Iowa
PROPOSED RULES
Abandoned mine land reclamation program; plan submissions:
22974 Oklahoma
Permanent program submission; various States:
22974 Indiana
22975 Wyoming
NOTICES
23026 Coal mining operations, underground; Mower Lumber Co. determination of valid existing rights in Monongahela National Forest, W. Va.

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
23000 Dominican Republic

Trade Representative, Office of United States
NOTICES
Meetings:
23065 Investment Policy Advisory Committee

Treasury Department
See also Customs Service; Internal Revenue Service.
NOTICES
Notes, Treasury:
23066 S–1984 series

Veterans Administration
NOTICES
Environmental statements; availability, etc.:
23066 Wisconsin Veterans Home, King, Wis.; nursing care facility construction

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Executive Orders:
11958 (Amended by EO 12365)....22933
12163 (Amended by EO 12365)....22933
12008 (Revoked by EO 12364)....22931
12364....22931
12365....22933

5 CFR
Ch. XIV....22935

7 CFR
2 (2 documents)....22935, 22936
1124....22937
1137....22938

12 CFR
747....22939

Proposed Rules:
742....22964

15 CFR
371....22941
372....22941
373 (3 documents)....22941, 22944, 22945
374 (2 documents)....22941, 22945
375....22941
376....22945
385....22941
386....22941
399....22946

18 CFR
271....22946
290....22947

19 CFR
Proposed Rules:
101....22964

20 CFR
Proposed Rules:
404....22965

21 CFR
193....22949

26 CFR
Proposed Rules:
1....22966
301....22970

28 CFR
Proposed Rules:
2....22972

29 CFR
Proposed Rules:
1910....22972

30 CFR
915....22950
Proposed Rules:
914....22974
936....22974
950....22975

40 CFR
52....22954
62....22955
180....22957
Proposed Rules:
52 (2 documents)....22976, 22978
180 (3 documents)....22980–22982

43 CFR
8350....23102

47 CFR
25....22958
73 (3 documents)....22959–22961
81....22962
83....22962
Proposed Rules:
73 (3 documents)....22985–22988

49 CFR
1033....22963

Federal Register
Vol. 47, No. 102
Wednesday, May 26, 1982

Presidential Documents

Title 3—

The President

Executive Order 12364 of May 24, 1982

The Presidential Management Intern Program

By the authority vested in me as President by the Constitution and laws of the United States of America, including Sections 3301 and 3302 of Title 5 of the United States Code, and in order to provide for the recruitment and selection of outstanding employees for careers in public sector management, it is hereby ordered as follows:

Section 1. There is hereby reconstituted the Presidential Management Intern Program. The purpose of the Program is to attract to the Federal service outstanding men and women from a variety of academic disciplines who have a clear interest in, and commitment to, a career in the analysis and management of public policies and programs. Individuals selected for the Program will be known as Presidential Management Interns.

Sec. 2. Eligible individuals are those who have pursued a course of study at the graduate level which demonstrates both an exceptional ability and the commitment stated above. Such individuals at the time of application must have recently received or must expect to receive soon an appropriate advanced degree.

Sec. 3. (a) The Office of Personnel Management shall provide specific guidance as to what constitutes an appropriate advanced degree.

(b) The Office of Personnel Management shall develop appropriate procedures for the recruitment, nomination, screening, placement and continuing career development of outstanding individuals possessing the qualifications described above.

(c) In developing those procedures, the Office of Personnel Management shall be guided by the following principles and policies:

(1) The number of new Presidential Management Interns selected shall not exceed two hundred in any fiscal year.

(2) Final placement of Presidential Management Interns shall be made by the head of the department, agency, or component within the Executive Office of the President in which the Intern is to be employed, or by the designee thereof.

(3) Universities and colleges participating in the Program shall make nominations for the Program. In making nominations, they shall establish competitive selection processes and procedures to ensure that all applicants receive careful and thorough review.

(4) The procedures so developed shall provide for such affirmative actions as the Office of Personnel Management deems appropriate to assure equal employment opportunity. The procedures shall also provide for the application of appropriate veterans preference criteria.

Sec. 4. (a) Successful candidates shall be appointed as Presidential Management Interns to positions in Schedule A of the excepted service. The appointment shall not exceed two years unless extended by the Federal department or agency, with the concurrence of the Office of Personnel Management, for up to one additional year.

(b) Tenure for the Presidential Management Interns shall be governed by the following principles and policies:

(1) Assigned responsibilities shall be consistent with an Intern's educational background and career interests, and the purposes of this Program.

(2) Continuation in the Program shall be contingent upon satisfactory performance by the Interns throughout the internship period.

(3) Except as provided in subsection (4) of this Section, service as an Intern shall confer no rights to further Federal employment in either the competitive or excepted service upon the expiration of the internship period.

(4) Competitive civil service status may be granted to Interns who satisfactorily complete their internships and meet all other requirements prescribed by the Office of Personnel Management.

Sec. 5. Those individuals who are currently undergoing the process of selection, or who were selected or appointed under the provisions of Executive Order No. 12008 and who have not at this time completed their scheduled period of excepted service, may continue their internships under the terms of this Order.

Sec. 6. The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purposes of this Order.

Sec. 7. Executive Order No. 12008 of August 25, 1977 is revoked.

Ronald Reagan

THE WHITE HOUSE,
May 24, 1982.

[FR Doc. 82-14475
Filed 5-24-82; 4:39 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12365 of May 24, 1982

Foreign Assistance and Arms Control

By the authority vested in me as President of the United States of America by Section 621 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2381) and Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. Executive Order No. 12163, as amended, entitled "Administration of Foreign Assistance and Related Functions," is further amended as follows:

(a) At the end of Section 1–201(a) add the following new paragraphs:

"(22) Section 725 of the International Security and Development Cooperation Act of 1981;

"(23) Section 726 of the International Security and Development Cooperation Act of 1981;

"(24) Section 728(b) and (d) of the International Security and Development Cooperation Act of 1981.".

(b) In Section 1–701(d) delete "659" and "and 670(b)(1)" and insert "620E, 670(a)(2), 670(b)(2), and 670(b)(3)" between "669(b)(1)" and "of the Act.".

(c) In Section 1–102(d), delete "301(e)(3)".

(d) In Section 1–201(a)(1), delete "301(b),", "301(e)(3),", and "302(a)(3),".

(e) In Section 1–201(a)(11), delete subsections "(b)," and "(i)," of the reference to Section 620.

(f) Delete Sections 1–201(a)(17) and (19) and renumber the remaining paragraphs accordingly.

(g) In Section 1–201(b), delete "620(i),".

(h) In Section 1–501(a), delete paragraph (1) and renumber the remaining paragraphs accordingly.

(i) Delete Section 1–701(f) and reletter the remaining subsections accordingly.

(j) In Section 1–701(h), delete everything following "(h)" to the end of the section and insert in lieu thereof: "Those under section 520 of the Foreign Assistance and Related Programs Appropriations Act, 1982, with respect to findings.".

Sec. 2. Executive Order No. 11958, as amended, entitled "Administration of Arms Export Controls," is further amended as follows:

(a) In Section 1(n), add at the end thereof: "The Secretary of Defense shall obtain the concurrence of the Secretary of State and the Secretary of the Treasury on any determination proposed under the authority of Section 42(c) of the Act.".

(b) In Section 1(o), delete everything following "(o)" to the end of the section and insert in lieu thereof: "Those under Sections 52(b) and 53 of the Act to the Secretary of Defense.".

(c) At the end of Section 1, insert the following new paragraph: "(p) Those under Sections 61 and 62(a) of the Act to the Secretary of Defense.".

Ronald Reagan

THE WHITE HOUSE,
May 24, 1982.

[FR Doc. 82-14476
Filed 5-24-82; 4:40 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 47, No. 102
Wednesday, May 26, 1982

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.

FEDERAL LABOR RELATIONS AUTHORITY, GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY, AND FEDERAL SERVICE IMPASSES PANEL

5 CFR Ch. XIV

Regional Office; Location Change

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Amendment of rules and regulations.

SUMMARY: This document amends Appendix A, paragraph (d)(2) (45 FR 80467, Dec. 5, 1980) of the rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 5 CFR Part 2400 *et seq.*, to establish a new office address for the location of the Authority's New York, New York Regional Office. The New York Regional Office's telephone numbers have not been changed.

EFFECTIVE DATE: May 17, 1982.

FOR FURTHER INFORMATION CONTACT: Laurence M. Evans, Assistant General Counsel (202) 382–0811.

SUPPLEMENTARY INFORMATION: Effective January 28, 1980, the Authority, General Counsel and Panel published at 45 FR 3482, January 17, 1980, final rules and regulations to govern the processing of cases by the Authority, General Counsel and Panel under Chapter 71 of Title 5 of the United States Code. (5 CFR Part 2400 *et seq.* (1981).) These rules and regulations are required by Title VII of the Civil Service Reform Act of 1978 and are set forth in 5 CFR Part 2400 *et seq.* (1981). Appendix A, paragraph (d) of the foregoing rules and regulations sets forth office addresses and telephone numbers of the Regional Directors of the Authority. This amendment sets forth the changed office address of the New York, New York Regional Office of the Authority. The New York Regional Office's telephone numbers have not been changed. Accordingly, in Appendix A to Chapter XIV, paragraph (d)(2) of the Authority, General Counsel, and Panel rules and regulations (5 CFR Part 2400 *et seq.* (1981)) is amended to read as follows:

Appendix A to 5 CFR Ch. XVI—Current Addresses and Geographic Jurisdictions

* * * * *

(d) The Office addresses of Regional Directors of the Authority are as follows:

* * * * *

(2) *New York, New York Regional Office*—26 Federal Plaza, Room 24–102, New York, New York 10278. Telephone: FTS–264–4934; Commercial—(212) 264–4934.

* * * * *

(5 U.S.C. 7134)

Dated: May 20, 1982.

Federal Labor Relations Authority.

For the Authority.

James J. Shepard,

Executive Director.

For the General Counsel.

S. Jesse Reuben,

Deputy General Counsel.

[FR Doc. 82–14323 Filed 5–25–82; 8:45 am]

BILLING CODE 6727–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary and general officers of the Department to assign certain functional responsibilities under the Lacey Act Amendments of 1981.

EFFECTIVE DATE: May 26, 1982.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782 (301–436–5591).

SUPPLEMENTARY INFORMATION: The delegations of authority by the Secretary of Agriculture and general officers of the Department are being amended to provide that the Assistant Secretary for Marketing and Inspection Services and the Administrator, Animal and Plant Health Inspection Service (APHIS), are responsible for administering the provisions of the Lacey Act Amendments of 1981 (16 U.S.C. 3401–3408), which pertain to the importation and exportation of certain plants. The plants protected by the Lacey Act Amendments of 1981 are any wild plants which are indigenous to any States which are either listed on (A) an appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or (B) listed pursuant to any State law that provides for the conservation of plants threatened with extinction.

The Department believes that this delegation conforms to the mission of APHIS and that placing responsibility for the provisions of the Lacey Act Amendments of 1981 with the Assistant Secretary for Marketing and Inspection Services and with the Administrator, Animal and Plant Health Inspection Service, will enable the Department to serve the public more efficiently. Therefore, the delegations of authority by the Secretary of Agriculture and general officers of the Department are being amended to provide that the Assistant Secretary for Marketing and Inspection Services and the Administrator, Animal and Plant Health Inspection Service, are responsible for enforcing the provisions of the Lacey Act Amendments of 1981 which pertain to the importation or exportation of plants protected by these Amendments.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291.

Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, 7 CFR Part 2 is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by adding a new paragraph (b)(35) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * *

(b) * * *

(35) Lacey Act Amendments of 1981 (16 U.S.C. 3401–3408).

* * * * *

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

3. Section 2.51 is amended by adding a new paragraph (a)(36) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) * * *

(36) Lacey Act Amendments of 1981 (16 U.S.C. 3401–3408).

For Subpart C:
Dated: May 20, 1982.

John R. Block,

Secretary of Agriculture.

For Subpart F:
Dated: May 20, 1982.

C. W. McMillan,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc 82-14292 Filed 5-25-82; 8:45 am]
BILLING CODE 3410-01-M

---

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to assign functional responsibilities for the Federal Plant Pest Act, as amended by Section 1119 of Pub. L. 97–98, and to reserve to the Secretary the authority, under specific criteria, to declare that an extraordinary emergency exists because of the presence of certain plant pests which seriously threaten crops, other plant life or plant products of the United States.

EFFECTIVE DATE: May 26, 1982.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, MD 20782 (301–436–5591).

SUPPLEMENTARY INFORMATION: The delegations of authority by the Secretary of Agriculture and general officers of the Department are being amended to provide that the Assistant Secretary for Marketing and Inspection Services and the Administrator, Animal and Plant Health Inspection Service (APHIS), are responsible for protecting against the introduction and dissemination of plant pests through enforcement of the provisions of the Federal Plant Pest Act, as amended, except that the authority to declare that an extraordinary emergency exists is reserved to the Secretary. There is authority for such a determination, whenever, among other things, the Secretary determines that an extraordinary emergency exists because of the presence of certain plant pests on any premises in the United States, and that the presence of such plant pests anywhere in the United States threatens the crops, other plant life, or plant products of the United States.

The Department believes that this delegation conforms to the mission of APHIS and that it will enable the Department to serve the public more efficiently. Therefore, the delegations of authority by the Secretary of Agriculture and general officers of the Department are being amended to provide that the Assistant Secretary for Marketing and Inspection Services and the Administrator, Animal and Plant Health Inspection Service, are responsible for enforcing the Federal Plant Pest Act, as amended, with the authority contained in the Act for the declaration of an extraordinary emergency reserved to the Secretary.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Finally, this action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, 7 CFR Part 2 is amended as follows:

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, unless otherwise noted.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.17 is amended by revising paragraph (b)(5) to read as follows:

§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Inspection Services.

* * * * *

(b) * * *

(5) The Federal Plant Pest Act, as amended (7 U.S.C. 150aa–150jj).

* * * * *

3. Section 2.18 is amended by adding a new paragraph (b)(4) to read as follows:

§ 2.18 Reservations of authority.

* * * * *

(b) * * *

(4) Determination that an extraordinary emergency exists under the criteria in Section 105(b)(1) of the Federal Plant Pest Act, as amended, (7 U.S.C. 150dd(b)(1)).

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing and Inspection Services

4. Section 2.51 is amended by revising paragraph (a)(5) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) * * *

(5) The Federal Plant Pest Act, as amended (7 U.S.C. 150aa–150jj).

* * * * *

For Subpart C:

Date: May 20, 1982.

John R. Block,

Secretary of Agriculture.

For Subpart F:

Date: May 20, 1982.

C. W. McMillan,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 82–14293 Filed 5–25–82; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Marketing Service

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain order provisions relating to how much milk not needed for fluid (bottling) use may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension removes the limit on such movements of milk for May 1982 through August 1982. The action is taken in response to a request by four cooperative associations who represent a substantial number of producers supplying the market to prevent uneconomic movements of milk not needed for fluid use.

EFFECTIVE DATE: May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Proposed Suspension: Issued April 26, 1982; published April 30, 1982 (47 FR 18603).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

Also, it has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the issuance of the suspension in time to include May 1982 in the suspension period. The initial request for this action was received on April 12, 1982. A notice of proposed suspension was issued on April 26, 1982, inviting interested parties to comment on the proposed action by May 7, 1982.

William T. Manley, Acting Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Oregon-Washington marketing area.

Notice of proposed rulemaking was published in the **Federal Register** (47 FR 18603) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. The proponents of the suspension filed comments supporting the suspension. No opposing comments were received.

After considering all relevant material, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of May through August 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In the third sentence of paragraphs (a) and (b) of § 1124.11, the word "not".

Statement of consideration

This action removes the limit on the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants during the months of May through August 1982. The order now provides that during any month a cooperative association may divert a total quantity of producer milk not in excess of the total quantity received during the month from all member producers at pool plants. Similarly, the operator of a pool plant may divert a total quantity of producer milk not in excess of the total quantity received from producers (for which the operator of such plant is the handler during the month) at such pool plant.

The suspension was requested by four cooperative associations who represent a substantial number of producers on the market. The basis of the request was that the present diversion limitation provisions will not accommodate the efficient handling of the milk of some of their members who are regularly associated with the market. The cooperatives indicate that this is because of the present buildup in the market's milk supplies due to a substantial increase in producer deliveries while Class I sales have declined. They state that this marketing situation is expected to continue through August 1982. The cooperatives contend that suspension of the diversion limits will be needed beginning in May to prevent unnecessary and uneconomic movements of milk.

A review of current market data indicates that milk supplies available to the market have increased substantially during recent months. For example, producer receipts are up nearly 7 percent for the first 3 months of 1982 compared to the same months of 1981. At the same time, Class I sales have declined nearly 3 percent during the first 3 months of 1982 from the comparable period in 1981.

Under these supply-demand conditions, and without the suspension, milk of some dairy farmers would first have to be received at a pool plant to qualify it for pooling rather than being shipped directly from the farm to manufacturing plants for surplus use. This would result in costly and inefficient movements of milk.

In view of the circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of producer milk supplies that are not needed for fluid use. This action will prevent uneconomic movements of milk through pool plants merely for the purpose of qualifying it as producer milk under the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions in the marketing area in that the most efficient method of handling milk not needed for the fluid market is by direct movements from producers' farms to manufacturing outlets. This suspension allows for such economical movements of milk while the dairy farmers involved retain producer status.

(b) This suspension does not require of persons affected substantial or extensive preparations prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning the suspension. There were no comments filed in opposition to the proposed suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for May 1982 through August 1982.

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

Effective date: May 26, 1982.

List of Subjects in 7 CFR Part 1124

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 21, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-14318 Filed 5-25-82; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 1137

Milk in the Eastern Colorado Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain order provisions affecting the regulatory status of a distributing plant. The suspension makes inoperative for May through August 1982 the requirement that a distributing plant must dispose of at least 50 percent of its milk receipts as fluid milk products on routes before the plant is eligible to have all of its milk pooled and priced under the order. This suspension, which is based on information considered at a public hearing in February 1982, was requested by a handler who operates two distributing plants in the market. The suspension recognizes the current marketing situation of the handler and is in the interest of producers and other handlers associated with the market as well.

EFFECTIVE DATE: May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–7311).

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of hearing issued January 4, 1982; published January 7, 1982 (47 FR 778).

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Further, it has been determined that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This suspension order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Eastern Colorado marketing area.

It is hereby found and determined that for the months of May through August 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1137.7(a)(1) the words "an amount equal to 50 percent or more of the total receipts of".

Statement of Consideration

The suspension makes inoperative for May through August 1982 the provision that at least 50 percent of the receipts of milk at a pool distributing plant be disposed of as fluid milk products on routes. The suspension was requested by Beatrice Foods Co., a proprietary handler who operates two pool distributing plants under the order.

During recent years, petitioner's Greeley, Colorado, distributing plant has had considerable difficulty in meeting the 50 percent route disposition requirement during the late spring and summer months. This was because of the loss of substantial Class I sales due to seasonal school closings and because the handler processes much of its Class II product volume for both of its distributing plants at the Greeley plant. The pooling problem has continued until September when schools reopen. Petitioner might have been able to assure itself of meeting the 50 percent route disposition requirement by moving considerable quantities of fluid milk products between its two distributing plants associated with the market, but that would have involved excessive handling and hauling costs and would have disrupted the production schedules of the two plants. To avoid the unneeded shipments, the handler requested a suspension of the 50 percent route disposition requirement for the months of July and August 1980 and May through August 1981. To accommodate this problem, the pertinent provisions of the order were suspended (45 FR 51542 and 46 FR 27627).

The handler's pooling problems were explored at a public hearing held February 2, 1982, at Denver, Colorado. At the hearing, the witness for the handler testified that the plant at Greeley probably would continue to have problems meeting a 50 percent route disposition requirement during the months when schools are closed. This testimony was in support of a proposal of the Mountain Empire Dairymen's Association, Inc., that would amend the order to provide for the unit pooling of distributing plants. There was no opposition to the proposal.

A decision on whether to adopt the proposed amendment will be issued when an evaluation of the hearing record is completed. In the interim, however, suspension of the pooling requirement that a distributing plant must dispose of at least 50 percent of its receipts on routes for the months of May through August 1982 is warranted on the basis of the hearing evidence. The suspension will enable Beatrice Foods Co. to maintain the continued pooling of its Greeley distributing plant without the handler, or the cooperative association that supplies milk to it, incurring excessive transportation costs solely to pool the Greeley distributing plant. Also, this will permit the producers regularly supplying the plant to continue to share uniformly with other producers supplying the market in the proceeds from the market's Class I sales.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that the suspension does not require of persons affected substantial or extensive preparation prior ro the effective date and the marketing problems that provide the basis for this suspension were fully reviewed at a public hearing and all interested parties had the opportunity of being heard on this matter.

Therefore, good cause exists for making this order effective upon **Federal Register** publication.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of May through August 1982.

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

Effective date: May 26, 1982.

List of Subjects in 7 CFR Part 1137

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 21, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82-14319 Filed 5-25-82; 8:45 am]

BILLING CODE 3410-02-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 747

Rules and Procedures Applicable to Proceedings Relating to the Suspension or Revocation of Charters and to Involuntary Liquidations

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: The National Credit Union Administration Board is issuing a final rule on involuntary liquidations of insolvent Federal credit unions. The final rule revises former Board policy by eliminating the availability of administrative hearings for Federal credit unions found to be insolvent pursuant to 12 CFR 747.702–747.704. This action will protect the National Credit Union Share Insurance Fund and creditors of the insolvent Federal credit unions by reducing the delay and financial losses that have occurred during the hearing process. It will also reduce the costs to the National Credit Union Administration in carrying out the mandate of Section 207 of the Federal Credit Union Act (12 U.S.C. 1787).

EFFECTIVE DATE: June 25, 1982.

ADDRESS: National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Anne K. Scully, Attorney-Advisor, Office of General Counsel, at the above address, telephone (202) 357–1030.

Supplementary Information

The National Credit Union Administration received twelve comments in response to the February 19, 1982 publication of its proposed rule (47 FR 7441). Generally, eight commentors favored and four commentors opposed the proposal. Those commentors who supported the elimination of the administrative hearings thought that the proposed change was in the best economic interests of all concerned, including creditors of insolvent credit unions, NCUA, the National Credit Union Share Insurance Fund (NCUSIF), all Federally insured credit unions and members of the insolvent credit union. They felt that elimination of undue financial strain on the NCUSIF as well as resultant savings to credit unions in supervision fees and insurance premiums were key arguments in favor of the proposal.

Prior Consent Decree

Two commentors who opposed the proposed rule expressed concern that the regulation proposed to be modified (concerning the administrative hearing procedure) was specifically promulgated pursuant to a consent decree, entered April 11, 1972, in *Pennsylvania Credit Union League v. Nickerson,* Civ. Action No. 71–2754 (E.D. Pa., 1972). That case involved the actions of NCUA in rejecting applications for the insurance of member accounts in federally chartered credit unions resulting in the cancellation of their Federal charters under the then existing Section 201(c)(2) and 201(d) of the Federal Credit Union Act, Pub. L. 91–468, 84 Stat. 994 (Oct. 19, 1970).

After consideration of this issue, the Board believes the consent decree is limited to those facts and distinguishable from the actions contemplated by the final rule.

First, the then existing section 201(d), 84 Stat. 994 (which required the Administrator to cancel the charter of a Federal credit union if its application for insurance was rejected) no longer exists. Section 201(d) was repealed on November 10, 1978 by section 504(c) of Pub. L. 95–630, 92 Stat. 3628.

Second, the authority to cancel a Federal charter under the then existing section 201(d) could only be exercised in the event that an existing Federal credit union's application for the then newly mandated Federal share insurance was rejected under the then existing section 201(c)(2). The situation giving rise to *Pennsylvania Credit Union League v. Nickerson* could not exist today because there are no federally chartered credit unions that are not already federally insured. The closest analogy would be to the cancellation of insurance under section 206(b) of the Federal Credit Union Act (since section 201(a) requires Federal credit unions to have Federal share insurance). Unlike the action contemplated by the final rule, the cancellation of insurance must by statute be accompanied by a hearing. The right to a hearing in the event of the cancellation of insurance is provided by Part 747 Subpart B of the National Credit Union Administration Rules and Regulations (12 CFR Part 747 Subpart B) and is left unchanged by the final rule.

Third, the action contemplated by the final rule applies only to Federal credit union found to be *insolvent* pursuant to section 120(b)(1) and 207(a)(1) of the Federal Credit Union Act. Neither provision was the subject of the consent decree in *Pennsylvania Credit Union League v. Nickerson* and neither is mentioned therein.

Constitutional Due Process Rights

All of the commentors who opposed the proposed rule believed that deprivation of the administrative hearings for insolvency in involuntary liquidation actions was not constitutionally permissible. While they recognized the need of NCUA to move swiftly to minimize time delays, expenses and the dissipation of assets, they felt that deprivation of a hearing would violate the due process rights of alleged insolvent credit unions. Further, they felt that other measures were already available under current law to the NCUA Board to enable it to move quickly in extreme cases. They cited 12 CFR 747.702(b), which authorizes the NCUA Board to immediately suspend the charter of a Federal credit union in certain appropriate cases.

It is the Board's opinion that the Constitutional requirements of procedural due process do not mandate notice and an administrative hearing prior to closing an insolvent Federal credit union. The United States Supreme Court has clearly established that a banking regulatory authority does not violate the Constitution by appointing a conservator or receiver to seize the property and assets of a banking institution without prior notice and a hearing, *Fahey v. Mallonee,* 332 U.S. 245 (1947). The Court recognized that the special and delicate character of a financial institution, coupled with the impossibility of preserving credit and the threat of potential economic disaster during an investigation by the regulatory agency, often make it necessary to invoke supervisory authority to suspend operations and to seize control of the insolvent institution's assets without a prior hearing. This exception continues to be recognized, *Fuentes v. Shevlin* 407 U.S. 67, 92 (1972); *In Re Franklin National Bank,* 381 F.S. 1390, (E.D.N.Y. 1974).

Second, the Board notes that the other alternative presently available, to immediately suspend the chapter and close the credit union during the hearing process (12 CFR 747.702(b)), enables NCUA to only partially prevent the dissipation of assets by preventing

management improprieties. However, the Board does not believe that its summary suspension authority is a viable alternative because such action will not prevent the deterioration of the credit union's loan portfolio. When a credit union's charter is immediately suspended, its doors are closed and member contact is curtailed. As a result, loan collection efforts by credit union staff are curtailed, members lose confidence, current loans become delinquent and delinquent loans become collection problems or losses. Thus, the value of the credit union's loan portfolio decreases even though no new loans are granted. This contributes to the deterioration of credit union assets. Indeed, in one insolvency involuntary liquidation action where the Board exercised its summary suspension authority, the credit union's share-asset ratio declined approximately 22 percent during the period in which the administrative hearing was held. Moreover, the Share Insurance Fund had to pay an extra $36,000 due to the deterioration of assets of the credit union. Summary suspension of a charter of a credit union works a special hardship on credit union members. Under the immediate suspension order, the credit union is closed and member accounts are frozen. Therefore, the Board does not view this procedure as a meaningful alternative to remedy the noted problems created by the time delays.

Mergers of Problem Credit Unions

One commentor who opposed the proposal felt that the regulation would allow NCUA to involuntarily liquidate an insolvent credit union without any effort to merge it or any concern for the credit union's membership. According to the commentor, the practical effect of the regulation would be to allow NCUA to eliminate smaller or problem credit unions without having to work with them to solve their problems.

The Board assures that the final rule will not eliminate any of NCUA's existing examination policies (both regularly scheduled and supervisory examinations), including the close working contacts made by the examiners and their efforts to work with problem credit unions. Further, the Board has modified and expanded its merger policies to provide viable alternative to liquidation of an endangered credit union. Under its new policies, the NCUA Board has authorized the Regional Directors to merge credit unions with different occupational and associational groups if they are located in the same area. This has the effect of providing an additional supervisory tool that the NCUA Regional Directors can use in helping troubled Federal credit unions, particularly those located in economically troubled areas.

However, if a Federal credit union becomes insolvent despite any of the remedial actions described above, then the NCUA Board is required under the Federal Credit Union Act to liquidate the credit union. (12 U.S.C. 1766(b)(1), 1878(a)(1)). It is only at this point that the proposed rule makes any changes in previous procedures by eliminating the adminstrative hearing prior to liquidation.

Problem Case/Preliminary Warning Letter

The Board stresses that those Federal credit unions exhibiting problems which may lead to insolvency will continue to be given notice and, within a reasonable amount of time, an opportunity to take the necessary corrective action, prior to initiation of the insolvency involuntary liquidation. In most cases, the credit union will, as a standard practice, be forewarned by a Problem Case/Preliminary Warning Letter (PC–PW Letter) from the Regional Director. The PC–PW Letter indicates that unless correction of the persisting problems occurs or reasonable progress is made toward the elimination of the problems, the Regional Director will initiate the administrative action. If the credit union is unable or unwilling to remedy those conditions which cause it to be insolvent after the PC–PW letter is issued, the Regional Director, pursuant to his delegated authority, will now issue a Notice of Revocation to revoke the charter of the credit union and to place it into involuntary liquidation.

Of course, where the Regional Director determines either after a regularly scheduled examination or a supervisory contact that circumstances warrant that immediate action be taken to prevent the dissipation of the credit union's assets and to protect the interest of members, creditors and the NCUSIF, the Regional Director will authorize the immediate suspension of the insolvent credit union's charter. In this case no PC–PW letter will be issued.

By the time the Board authorizes the action of involuntary liquidation based upon insolvency, it has developed sufficient findings of fact to support the action and has also warned the credit union of its impending condition. The Board believes that its examination policies and guidelines function to protect both the agency's and the credit union's rights. This is reflected historically in that every insolvency action initiated by NCUA, when subsequently challenged by the credit union, has withstood judicial review.

Costs of Hearing Process

The Board has collected data on the twelve insolvent federal credit unions that requested a hearing and were subsequently liquidated during 1980–81. In these cases the total loss due to the deterioration of assets during the hearing period was approximately $1,056,422. This total was obtained by comparing the difference in the value of the credit union's assets and the amount of its liabilities as of the date of the notice of intent to the difference as of the actual date of liquidation. In addition, the Board has found that an insolvent credit union that requests a hearing costs NCUA approximately $9,600 in additional staff time consumed and administrative costs incurred. Staff time includes approximately 254 hours of attorney and examiner staff time spent in preparation for and participation in insolvency liquidation hearings. It also includes approximately 193 hours of regional office and examiner time consumed in supervision of these credit unions from the time the insolvency action is commenced to the date of liquidation. Total staff time averages $7,800 per insolvency liquidation action. In addition, direct administrative costs incurred by NCUA were approximately $1,800 per hearing. (This included attorney and administrative law judge travel and subsistence expenses, court costs, etc.).

Based upon these statistics, the Board believes that the costs borne by NCUA are excessive and are not outweighed by any benefits derived from a continuation of the hearing process.

Regulatory Flexibility Act

The NCUA Board certifies that these rules will not have a significant economic impact on a substantial number of small credit unions because the rules pertain only to agency practice and procedures and will minimize the risk of loss to creditors of insolvent credit unions, and reduce costs to NCUA, to the NCUSIF, and (through the impact on fees and assessments) to all federally insured credit unions. Further, based on past history, few small credit unions availed themselves of a hearing in insolvency liquidation actions. Therefore, a regulatory flexibility analysis is not required pursuant to 5 U.S.C. 605(b).

List of Subjects in 12 CFR Part 747

Administrative practice and procedure, Credit unions, Insurance

By the National Credit Union Administration Board, May 20, 1982.

Rosemary Brady,

Secretary of the Board.

(12 U.S.C. 1766, 1787)

PART 747—ADMINISTRATIVE ACTIONS, ADJUDICATIVE HEARINGS, AND RULES OF PRACTICE AND PROCEDURE

Accordingly, Part 747 (12 CFR 747) is amended as follows:

1. Section 747.01 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 747.01 [Amended]

(a) * * * The administrative actions described herein, as well as the grounds and hearing procedures for each, are controlled by sections 120(b) (except where the Federal credit union is closed due to insolvency), 206 and 304(c)(3) of the Federal Credit Union Act. * * *

* * * * *

2. Section 747.101(a)(5) is revised to read as follows:

§ 747.101 [Amended]

(a) * * *

(5) Those held pursuant to section 120(b) of the Act, pertaining to the suspension or revocation of the charter of any solvent Federal credit union, and the placing of such a credit union into involuntary liquidation (Subpart G) and

* * * * *

3. Section 747.701 is revised to read as follows:

§ 747.701 Scope.

The rules and procedures set forth in this subpart are applicable to proceedings by the Board pursuant to section 120(b)(1) to suspend or revoke the charter of a solvent Federal credit union, and to place a solvent Federal credit union into involuntary liquidation.

4. Section 747.702 is revised to read as follows:

§ 747.702 Grounds for suspension or revocation of charter and for involuntary liquidation.

(a) *Grounds in general.* The Board may suspend or revoke the charter of any Federal credit union, and place such credit union into involuntary liquidation and appoint a liquidating agent therefor, upon its finding that the credit union has violated any provision of its charter or bylaws or of the Federal Credit Union Act or regulations issued under said Act,

(b) *Immediate suspension.* In any case where the Board determines that the grounds set forth in paragraph (a) of this section exist and that immediate action is necessary in order to prevent further dissipation of credit union assets or earnings, or further weakening of the credit union's condition, or to otherwise protect the interest of the credit union's insured members or the National Credit Union Share Insurance Fund, it may order without prior notice, the immediate suspension of the charter of such credit union, and if the circumstances so warrant, may take possession of all books, records, assets, and property of every description of such credit union.

5. The last sentence of § 747.705(a) is revised to read as follows:

§ 747.705 Issuance of order.

(a) * * * Additionally, the Board shall appoint a liquidating agent or agents.

* * * * *

[FR Doc. 82-14300 Filed 5-25-82; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 372, 373, 374, 375, 385, and 386

Simplification and Clarification of Export Administration Regulations

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This revision simplifies and clarifies several provisions of the Export Administration Regulations that have caused confusion in the past. It also expands the application of General License GTE to permit exports that were previously prohibited under this authorization. The revisions are necessary to help exporters understand the intent of the Regulations, and to allow them to take advantage of the least restrictive way to effect each export transaction.

EFFECTIVE DATE: May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, U.S. Department of Commerce, 14th Street and Pennsylvania Ave., N.W., Washington, D.C. 20230, Telephone 202-377-4811.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, 50 U.S.C. 2401 *et seq.*) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Section 13(b) of the Act, which expresses the intent of Congress that to the extent practicable, "regulations imposing controls on exports" be published in proposed form is not applicable because this regulation does not impose new controls on exports.

In connection with various other rulemaking requirements, the Office of Export Administration has determined that:

1. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

2. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

Substance of the Regulation

Section 371.2, on general provisions for General License shipments, is amended to delete an obsolete reference.

General License GLR is amended to cross-reference permissive reexport provisions of Part 374 that permit replacement of defective or unacceptable parts, or servicing of commodities, in Country Group T or V and return to the original consignee. This cross-reference is added to make the exporter aware of alternatives to servicing in the United States.

General License *GTE* is amended to—

1. Clarify title requirements on commodities exported temporarily for exhibition or demonstration; and

2. Permit exports to the exporter's representative, agent or employees, of certain levels of computers, similar to the levels exportable under the Distribution License procedure.

Section 372.4 is amended to show that the validity period of licenses obtained under emergency clearance procedures may not be extended. The information is already provided in § 372.11, and is added to § 372.4(h) to make this subsection a more complete discussion of emergency clearance procedures.

Section 372.11 on amending Export Licenses is amended to emphasize that—

1. In some cases a change in country of ultimate destination or a change in ultimate consignee may be made by amendment; and

2. Addition of a commodity may be made by amendment, provided the new commodity has the same processing code as the other commodities on the license.

Supplement No. 1 to Part 373 is amended to show that both levels of computers (Entry No. 1565) are excluded from the Project License procedure.

Section 374.3(d) is amended by deleting the last sentence, which said that the U.S. would notify the Swiss government if a reexport request is approved for commodities covered by a Swiss Blue Import Certificate. This procedure is no longer followed.

Section 375.2 is amended by adding a Note to explain that a license application with a total value exceeding $5,000 is exempt from the requirement for a Statement by Ultimate Consignee and Purchaser, as long as the value of commodities classified under *each* ECCN does not exceed $5,000.

Section 375.3 on International Import Certificates and Delivery Verification Certificates is amended to show that the government issuing the Certificate *must* be the government of the country of ultimate destination, and subsection (a), Scope, is revised for clarity.

Section 385.4 is amended to delete Canada from a listing in paragraph (b)(3), because Canada is not part of the country group being discussed.

Section 386.6, on Destination Control Statements, is amended for clarity.These changes are made in compliance with section 12(e) of the Export Administration Act of 1979.

The changes are intended to lessen the regulatory burden on exporters bypublishing more liberal interpretations of the Regulations, or by more fully explaining portions of the Regulations that have been misunderstood by exporters.

List of Subjects

15 CFR Parts 371, 372, 373, 375

Export licenses, Exports.

15 CFR Part 374

Exports, Reexports.

15 CFR Part 385

Commodity Control List,Communist countries, Country groups, Export licenses, Exports.

15 CFR Part 386

Export clearance, Exports.

Accordingly, the *Export Administration Regulations* (15 CFR Parts 368–399) are amended as follows:

PART 371—GENERAL LICENSES

1. Section 371.2 is amended by removing and reserving paragraph (c)(6) as follows:

§ 371.2 General provisions.

* * * * *

(c) * * *

(6) [Reserved]

* * * * *

2. The introductory paragraph of § 371.17 is revised to read as follows:

§ 371.17 General license GLR; return or replacement of certain commodities.

A general license designated *GLR* is established, subject to the provisions of § 371.17, authorizing the return of certain commodities to the destination from which imported into the United States or replacement of defective or unacceptable parts or equipment that were exported from the United States under a validated export license. (Permissive reexport provisions allow comparable reexports from Country Group T or V of replacements for defective or unacceptable parts or equipment (see § 374.2(a)(4)) and reexports to Country Group T or V for servicing and subsequent return to the original consignee (see § 374.2(f)).)

* * * * *

3. Section 371.22(b)(2) is revised to read as follows:

§ 371.22 General license GTE; temporary exports.

* * * * *

(b) * * *

(2) Commodities for exhibition or demonstration in Country Group T or V, provided the U.S. exporter retains title. The SED for this type of transaction shall show the U.S. exporter as ultimate consignee, in care of the person who will have custody of the commodities abroad.

* * * * *

4. Paragraphs 371.22(c) (1) and (2)(iii) are revised and sentences are added at the end of (c)(2) to read as follows:

§ 371.22 General license GTE; temporary exports.

* * * * *

(c) * * *

(1) *Destinations.* No commodity may be exported under provisions of this general license to Country Group S or Z; and except as further restricted by § 371.22(c)(2), only commodities not identified by the code letter "A," "B," or "M" following the Export Control Commodity Number on the Commodity Control List (Supplement No. 1 to § 399.1) may be exported to Country Group P, Q, W, or Y. These exceptions apply also to any vessel, aircraft, or extraterritorial point under ownership, control, lease, or charter by any of the countries mentioned in this § 371.22(c)(1) or to any national thereof.

(2) * * *

* * * * *

(iii) Commodities listed in Supplement No. 1 to Part 373, except commodities identified in the footnotes thereto as available for shipment to certain countries under the Distribution License procedure, may be shipped to those same countries under General License GTE.

When warranted, additional exceptions to the exclusion from General License *GTE* of commodities listed in Supplement No. 1 to Part 373 will be considered. To request an exception, submit a letter to: Office of Export Administration, P.O. Box 273, Washington, D.C. 20044, describing fully the commodity to be exported, its proposed use and disposition, and the reasons an exception is warranted. The Office of Export Administration will notify the exporter of its decision on the request for exception.

* * * * *

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

5. Section 372.4 is amended by revising paragraph (h)(4) and adding a new paragraph (h)(5), to read as follows:

§ 372.4 How to apply for a validated license.

* * * * *

(h) * * *

(4) When a license is approved on an emergency basis by the Office of Export Administration, the applicant will be notified of the license number by phone, wire or in person, in order that shipment can be made without waiting for the arrival of the license by mail.

(5) The validity period of a license issued under this emergency procedure will end no later than the last day of the calendar month following the month in which the license is issued unless a longer validity period can be justified. The Office of Export Administration will not consider requests to extend the validity of a license that was issued under this emergency procedure.

* * * * *

6. Paragraph (d) of § 372.11 is revised; §§ 372.11(e) (6), (7), (8) and (9) are redesignated as § 372.11(e) (7), (8), (9), and (10); a new § 372.11(e)(6) is added; and § 372.11(f)(9) is revised to read as follows:

§ 372.11 Amending export licenses.

* * * * *

(d) *Changes Requiring a New License Application.* The following types of changes require a new license application:

(1) Change in country of ultimate destination or ultimate consignee (except as indicated in § 372.11(e)(2) below); or

(2) Addition of a commodity with a different Processing Code from that on the original application, except a Project License may include commodities with different Processing Codes.

(e) * * *

(6) *Change in commodity*—provided the Processing Code for any added commodity(ies) is identical to the one assigned to commodities on the existing license. A Project License, however, may show more than one Processing Code.

* * * * *

(f) * * *

(9) Change in Export Control Commodity Number, unit of quantity, unit price, or wording of the commodity description (where necessary only for the purpose of conforming to an official revision in the Commodity Control List). This does not cover an actual change in the commodity to be shipped, or an increase in the price or quantity as described in §§ 372.11(e) (4), (5) and (6), for which amendments are required.

* * * * *

PART 373—SPECIAL LICENSING PROCEDURES

7. Supplement No. 1 to Part 373 is amended by revising the first 1565 entry as follows:

Supplement No. 1 to Part 373—Commodities Excluded From Certain Special License Procedures

* * * * *

1565[2,3,4] Electronic computers exceeding a CPU bus rate of 60 million bits per second or a processing data rate of 20 million bits per second.

* * * * *

[2] Under the distribution License procedure, electronic computers that do not exceed either a CPU bus rate of 500 million bits per second or a processing data rate of 225 million bits per second may be exported to approved consignees in destinations listed in Supplement No. 2 to Part 373. Electronic computers that do not exceed either a CPU bus rate of 200 million bits per second or a processing data rate of 60 million bits per second may be exported under the Distribution License procedure to approved consignees in destinations listed in Supplement No. 3 to Part 373. This exception also applies to any device, apparatus or accessory that upgrades a computer within the limits defined above.

[3] Excluded from Project License procedure.

[4] Distribution licenses are not valid for the export of any computers to ultimate consignees engaged directly or indirectly in any of the following activities—

(a) Designing, developing or fabricating nuclear weapons or nuclear explosive devices; or devising, carrying out, or evaluating nuclear weapons tests or nuclear explosions;

(b) Designing, assisting in the design of, constructing, fabricating or operating facilities for the chemical processing of irradiated special nuclear material, for the production of heavy water, for the separation of isotopes of any source or special nuclear material, or specially designed for the fabrication of nuclear reactor fuel containing plutonium;

(c) Designing, assisting in the design of, constructing, fabricating or furnishing equipment or components specially designed, modified or adapted for use in such facilities; or

(d) Training personnel in any of the above activities.

PART 374—REEXPORTS

8. Section 374.3(d) is revised to read as follows:

§ 374.3 How to request reexport authorization.

* * * * *

(d) *Reexports from Switzerland and Liechtenstein.* If export from the United States was made, or will be made, to Switzerland or Liechtenstein under a validated export license, a request to reexport this commodity from Switzerland or Liechtenstein shall include the number and date of the Swiss Blue Import Certificate submitted in support of the license application to export the commodity from the United States.

* * * * *

PART 375—DOCUMENTATION REQUIREMENTS

9. Section 375.2(b)(2) is revised to read as follows:

§ 375.2 Form ITA-629, Statement by ultimate consignee and purchaser.

* * * * *

(b) * * *

(2) The total value of commodities classified under a single entry (ECCN) on the Commodity Control List (*as shown on the export order covering the application*) is less than $5,000. However, this total value exemption does not apply to an application supported by a Form ITA-629 covering multiple transactions.

Note.—A license application listing several Commodity Control List entries qualifies for this exemption as long as the value of commodities classified under *each* ECCN does not exceed $5,000. In this case, the total value of the license may exceed $5,000.

* * * * *

10. Section 375.3(a) is revised to read as follows:

§ 375.3 International Import Certificate and Delivery Verification Certificate.

(a) *Scope.*—(1) *International Import Certificate.* An International Import Certificate (IC) is an undertaking by the government of the country of ultimate destination (the issuing government) to exercise legal control over the disposition of the commodities covered by the IC. The governments that issue IC's are listed in § 375.3(b). The IC is obtained by the importer (ultimate consignee or purchaser) and transmitted to the exporter (applicant). The Office of Export Administration requires an IC in support of an individual export license application to export a commodity(ies) identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List to one of the destinations listed in § 375.3(b). The IC is not required if one of the exemptions in § 375.3(d) applies. An IC may also be required for transactions not involving an export from the United States. (See § 368.2(a)(8).)

(2) *Delivery Verification Certificate.* A Delivery Verification Certificate (DV) is a document issued by the government of the country of ultimate destination after the export has taken place and the commodities have either entered the export jurisdiction of the recipient country or are otherwise accounted for by the importer to the issuing government. Governments that issue DV's are listed in § 375.3(b). The Office of Export Administration requires DV's on a selective basis as described in § 375.3(i)

(3) *Effect of IC and DV.* The control exercised by the government issuing an International Import Certificate or Delivery Verification Certificate is in addition to conditions and restrictions placed on the export by the Office of Export Administration. The laws and regulations of the United States are in no way modified, changed, or superseded by the issuance of an International Import Certificate or a Delivery Verification Certificate.

* * * * *

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

11. Section 385.4(b)(3) is revised to read as follows:

§ 385.4 Country group V.

* * * * *

(b) * * *

(3) Regional stability commodities and equipment. In support of U.S. foreign policy to maintain regional stability, an individual validated export license is

required to export military vehicles and certain commodities used to manufacture military equipment identified in § 376.16, to any destination in this country group except Australia, Belgium, Denmark, France, the Federal Republic of Germany (including West Berlin), Greece, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Turkey and the United Kingdom. (See § 385.7 for regional stability controls on exports to Libya.)

* * * * *

PART 386—EXPORT CLEARANCE

12. Paragraph (a)(1) of § 386.6 is revised to read as follows:

§ 386.6 Destination control statements.

(a) * * *

(1) *Exports to all destinations except the Republic of South Africa and Namibia.* For exports to a destination other than the Republic of South Africa or Namibia, one of the three destination control statements described in §§ 386.6 (c) and (d) is required for an export under—

(i) A validated license;

(ii) General License *GLV, GTF–US, GTE,* or *GLR;* or

(iii) General License *G–DEST* if the commodities are under validated license control to any Group Y destination and the value of the shipment exceeds $250.

* * * * *

(Secs. 3, 5, 6, 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.;* Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Dated: May 3, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82–14297 Filed 5–25–82; 8:45 am]

BILLING CODE 3510–25–M

---

15 CFR Part 373

Additional Nuclear Restrictions to Distribution License

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Interim rule.

SUMMARY: This rule makes existing Distribution Licenses consistent with U.S. nuclear nonproliferation policy by excluding sales to nuclear entities in countries *not* included in either Supplement No. 2 or Supplement No. 3 to Part 373 of the *Export Administration Regulations.* This rule replaces a restrictive rider that was being sent with approved Distribution Licenses. U.S. policy for the countries described above is to review applications for nuclear entities on a case-by-case basis to prevent assistance to unsafeguarded nuclear facilities.

DATES: This rule is effective May 26, 1982. Comments must be received by the Department by July 26, 1982.

ADDRESS: Written comments (four copies) should be sent to: Richard J. Isadore, Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–5247 or 377–4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.* (Supp. III 1979) ("the Act")), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act.

However, because of the importance of the issues raised by these regulations they are issued in interim form and comments will be considered in developing any final regulations. These regulations may be revised before the end of the comment period. Accordingly, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The period for submission of comments will close on July 26, 1982. Comments received after the close of the comment period cannot be assured consideration in the development of the final regulations. Public comments that are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature, or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations. All public comments to be considered in any revision to these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, they must be followed by written memoranda that will also be a matter of public record and will be available for public review. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 4001B, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

List of subjects in 15 CFR Part 373

Exports.

PART 373—SPECIAL LICENSING PROCEDURES

Accordingly, Part 373 of the Export Administration Regulations (15 CFR Parts 368–399) is amended by revising paragraphs (a) (1) and (2) of § 373.3 to read as follows:

§ 373.3 Distribution license.

* * * * *

(a) Eligible Countries. (1) The Distribution License procedure may authorize exports and reexports to:

(i) All countries in Country Group T; and

(ii) All countries in Country Group V except Afghanistan.

(2) The Distribution License procedure may not be used for export or delivery to nuclear end-users or for nuclear end-uses located in countries *not* listed in

either Supplement No. 2 or Supplement No. 3 to Part 373.

* * * * *

(Sections 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. § 2401 *et seq.*; Section 309(c), Nuclear Non-Proliferation Act of 1978 (Pub. L. 95–242); Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Dated: April 29, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration, International Trade Administration.

[FR Doc. 82–14295 Filed 5–25–82; 8:45 am]

BILLING CODE 3510–25–M

---

15 CFR Parts 373 and 374

Permissive Reexports Under General License GLV

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations to clarify policy for reexports of commodities originally exported under a Distribution License and those originally exported under an individual license.

Section 373.3(i)(4) of the Regulations currently states that General License GLV cannot be used to reexport commodities originally exported under a Distribution License. However, § 374.2(a)(2) allows commodity reexports under GLV without prior written authorization from the Office of Export Administration if the value requirement on the Commodity Control List for the new country of destination is met.

This rule revises § 373.3(i)(4) to allow for reexports of commodities originally exported under a Distribution License provided that certain conditions are met. In addition, this rule amends a footnote in § 374.2 to delete the prohibition against reexport of commodities originally exported under a Distribution License. Such commodities may be reexported if the value requirement on the Commodity Control List for the new country of destination is met.

DATE: Effective May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that were practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulations."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR

Part 373

Export licenses, Exports.

Part 374

Exports, Reexports.

PART 373—SPECIAL LICENSING PROCEDURES

Accordingly, the *Export Administration Regulations* (15 CFR Parts 368–399) are amended as follows:

1. Section 373.3(i)(4) is revised to read as follows:

§ 373.3 Distribution license.

* * * * *

(i) * * *

(4) *Permissive reexports.* Approved distributors may take advantage of the permissive reexport provisions of § 374.2, provided that accurate records are maintained.

* * * * *

PART 374—REEXPORTS

§ 374.2 [Amended]

2. Footnote 4 to § 374.2(a)(2) is amended by revising the phrase "under the Distribution License or Aircraft and Vessel Repair Station Procedures" to read "under the Aircraft and Vessel Repair Station Procedure."

(Sections 5, 6, 13(b) and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. § 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980).)

Dated: April 23, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration, International Trade Administration.

[FR Doc. 82–14294 Filed 5–25–82; 8:45 am]

BILLING CODE 3510–25–M

---

15 CFR Part 376

Clarification of Note

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule, which neither expands nor limits the provisions of the *Export Administration Regulations*, clarifies the intent of Note 3 in § 376.12. Notes 2 and 3 of that section deal with questions that exporters should answer when determining whether prior written approval of the Office of Export Administration is required for the incorporation abroad of U.S.-origin parts or components in a foreign-made end product that will be exported. Note 3 contains a reference to Note 2, but it is unclear whether Note 3 refers to one or both questions asked in Note 2. This rule rewords Note 3 to show that it refers to both questions in Note 2.

DATE: Effective May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing

controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 376

Export licenses, Exports, Reexports.

Accordingly, the *Export Administration Regulations* (15 CFR Parts 368–399) are amended as follows:

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

§ 376.12 [Amended]

Note 3 to § 376.12 is amended by revising the phrase "If the answer to 2 is 'no,' " to read "If the answers to both questions in 2. are 'no',".

(Sec. 13 and 15, Pub. L. (96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.;* Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Organization and Function Orders 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980)

Dated: April 29, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82–14283 Filed 5–25–82; 8:45 am]

BILLING CODE 3510–25–M

15 CFR Part 399

Amendments to Commodity Control List

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends Export Control Commodity Number (ECCN) 1560A on the Commodity Control List (CCL) to delete one footnote, previously incorporated by error. Also, some lithium now included in CCL entries 3607A and 4607B is decontrolled to all Country Groups except S and Z by incorporating it into ECCN 6699G.

DATES: This rule is effective May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377–5247 or 377–4811).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking requirements, the Office of Export Administration has determined that:

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

2. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

4. This rule is not a major rule within the meaning of section 1(b) of Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation."

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 399

Commodity Control List, Exports.

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Accordingly, Part 399 of the Export Administration Regulations (15 CFR Parts 368–399) is amended as follows:

§ 399.1 [Amended]

1. ECCN 1560A of Supplement No. 1 to § 399.1 is amended to remove footnote 2, which reads as follows:

[2] Exports of capacitors rated for operation during their specified lifetime at ambient temperatures below −55° C or above +200° C are controlled by the U.S. Department of State, Office of Munitions Control.

2. ECCN 3607A is revised to read as follows:

Export control commodity number and commodity description	Unit	Validated license required	GLV $ value limits T&V	Processing code	Reason for control
3607A Lithium, as follows:	Lb.	PQSTVWYZ	100	MG	1,4
(a) Metal, hydrides, or alloys containing lithium enriched in the 6 isotope to a concentration higher than the one existing in nature (7.5 percent on an atom percentage basis);					
(b) Any other materials containing lithium enriched in the 6 isotope (including compounds, mixtures, and concentrates), *except lithium enriched in the 6 isotope incorporated in thermoluminescent dosimeters.*					

3. ECCN 4607B is removed.

(Secs. 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. § 2401 *et seq.;* Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Administration Organization and Function Order 41–1 (45 FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Dated: May 3, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration, International Trade Administration.

[FR Doc. 82–14296 Filed 5–25–82; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–000 (New Mexico–10); Order No. 232]

High-Cost Gas Produced From Tight Formations; Final Rule

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established

procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the State of New Mexico Energy and Minerals Department, Oil Conservation Division that the Chacra Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: This rule is effective May 20, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511 or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:
Issued May 20, 1982.

The Commission hereby amends § 271.703(d) of its regulations to include the Chacra Formation in Sandoval County, New Mexico, as a designated tight formation eligible for incentive pricing under § 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation (OPPR), issued March 4, 1982 (47 FR 10424, March 10, 1982),[1] based on a recommendation by the State of New Mexico Energy and Minerals Department, Oil Conservation Division (New Mexico) in accordance with § 271.703(c) that the Chacra Formation be designated as a tight formation.

Evidence submitted by New Mexico supports the assertion that the Chacra Formation meets the guidelines contained in § 271.703(c)(2). The Commission adopts the New Mexico recommendation

This amendment shall become effective immediately. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and, therefore, incentive prices should be made available as soon as possible. The need to make incentive prices immediately available establishes good cause to waive the thirty-day publication period.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3342; Administrative Procedure Act, 5 U.S.C. 553)

[1] Comments were invited on the proposed rule and none were received. No party requested a public hearing and no hearing was held.

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective May 20, 1982.

By the Commission.

Kenneth F. Plumb,
Secretary.

PART 271—CEILING PRICES

Section 271.703(d) is revised by adding new subparagraph (85) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations*

* * * * *

(85) *Chacra Formation in New Mexico.* RM79–76 (New Mexico–10)

(i) *Delineation of formation.* The Chacra Formation is found in Township 21 North, Range 5 West, Sections 6, 7, 8, 16 through 22 and 26 through 36; Township 21 North, Range 6 West, Sections 1 through 18, 20 through 27, 35 and 36; Township 21 North, Range 7 West, Sections 1 through 4, and 10 through 13; Township 22 North, Range 6 West, Sections 6, 7, 8, 16 through 22, and 26 through 36; and Township 22 North, Range 7 West, Sections 1 through 36, NMPM in Sandoval County, New Mexico. The formation is on the Chaco Slope of the Southern San Juan Basin.

(ii) *Depth.* The Chacra Formation averages 300 feet in thickness and is the uppermost sand formation below the Huerfanito bentonite bed. The average depth to the top of the Chacra Formation is 1,658 feet.

[FR Doc. 82–14254 Filed 5–25–82; 8:45 am]
BILLING CODE 6717–01–M

---

18 CFR Part 290

[Docket No. RM82–28–000; Order No. 231]

Extension of Filing Date Under Section 133 of PURPA

Issued May 19, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations (18 CFR Part 290) which implements section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 133 of PURPA requires electric utilities to file cost of service and load data with the Commission and the states, at specified intervals. The amendment extends to June 30, 1983, the date by which electric utilities with total annual electric energy sales, for purposes other than resale, of less than one billion kilowatt-hours must make an initial filing of information under PURPA. An extension of time to file is provided at this time because the Commission is reexamining whether the reporting requirements under Part 290 should be revised to be more useful and appropriate.

DATES: This rule is effective on May 19, 1982. The Commission nevertheless invites comments on this rule.

ADDRESSES: An original and fourteen copies of all comments should be addressed to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. All comments should reference Docket No. RM82–28–000.

FOR FURTHER INFORMATION CONTACT:
Daniel G. Lewis, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 376–9227.
Michael R. Postar, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8033.

SUPPLEMENTARY INFORMATION:

In the matter of extension of filing date under section 133 of PURPA; Docket No. RM82–28–000, Order No. 231.

Issued May 19, 1982.

The Federal Energy Regulatory Commission (Commission) is amending its regulations (18 CFR Part 290) which implement section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA).[1] Section 133 of PURPA requires electric utilities to file cost and load data with the Commission and the states, at specified intervals. The amendment extends, to June 30, 1983, the date by which electric utilities with total annual electric energy sales, for purposes other than resale, of less than one billion kilowatt-hours must make an initial filing of information under PURPA.

[1] 16 U.S.C. 2643 (1978).

I. Background

Section 133 of PURPA requires electric utilities with annual electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours to file cost of service and load data with the Commission and the states. PURPA requires electric utilities to file the specified information with the Commission every two years. Congress directed the Commission to prescribe the methods, procedures, and format to be used by electric utilities in gathering the information described in section 133 of PURPA.

The Commission's regulations [2] implementing section 133 of PURPA require electric utilities to gather and submit a wide variety of cost of service and load data. Those regulations also require most utilities to report this cost of service information to the Commission and the states for the first time on November 1, 1980. Thereafter, these utilities are required to refile periodically.

Section 290.102(d) of the Commission's regulations, permits smaller electric utilities "having total sales of electric energy for purposes other than resale of less than 1 billion kilowatt-hours in each of the calendar years 1976, 1977 and 1978," to begin the biennial reporting program as late as June 30, 1982.

In promulgating Part 290 under section 133 of PURPA, the Commission expressed concern with "the effect of immediately imposing this new reporting requirement on small utilities." [3] In its original rulemaking, the Commission therefore extended the initial filing deadline for small utilities in order to delay the financial impact of the section 133 reporting requirements.

The cost of compliance with the PURPA section 133 reporting requirements continues to be a concern of the Commission and the Congress. In a recent report, the General Accounting Office (GAO) expresses its views on how the section 133 reports should be gathered and the cost of compliance with these reporting requirements.[4] According to the GAO, few of the potential users which were surveyed have made use of the data or foresee a use for the data in the immediate future. The GAO reports that the cost of compliance varied considerably among the utilities which it surveyed. The GAO concludes, however, "that a substantial amount of the total cost of a load research survey is relatively fixed and is not related to utility size." [5] Finally, the GAO recommends that the Commission review costs and benefits of the reporting requirements under section 133 of PURPA.

Subsequent to the GAO report, the Commission issued, on January 29, 1982, a Notice of Inquiry[6] with respect to whether the reporting requirements under section 133 of PURPA might be eased and how regulatory authorities and interested parties have used the reported data in PURPA proceedings, rate cases, and in other ways. Specifically, the Notice requests comment on (1) the use of the data collected and reported, (2) the cost of compliance, (3) the extent of duplication with other Federal and state reports, and (4) possible alternatives and revisions to the regulations.

II. Extension of Filing Date for Small Utilities

Section 133(c) of PURPA permits the Commission to extend the period of time by which any utility must make an initial filing under PURPA. An extension may be granted by the Commission "for a reasonable additional period in the case of any electric utility for good cause shown." The final rules implementing section 133 of PURPA establish a procedure for providing case-by-case filing extensions to individual utilities.[7] In addition, the Commission, in § 290.102(d), currently provides an initial filing date under section 133(c) for the class of small utilities which differs from that prescribed for larger utilities. This extension of time to file was based on a finding of good cause with respect to that class of utilities.[8]

In conjunction with the Commission's ongoing effort to ascertain the practical alternatives to the existing regulations in Part 290, the Commission has determined that an additional limited measure of regulatory relief can and should be provided to a class of utilities at this time. The Commission seeks to provide some relief from the Part 290 requirements for all small utilities, instead of only for those small utilities which have applied for an extension of the time to file. Therefore, this final rule further extends to June 30, 1983, the period in § 290.102(d) for an initial filing by any small utility, based upon the following information.

The cost of complying with Part 290 incurred by regulated utilities involves both initial investments in data collection devices and the recurrent cost of compiling the data on a biennial basis. Comments by small utilities on the Notice of Inquiry estimate that, generally speaking, their costs are as high as $400,000 for the load metering equipment and $30–50,000 for a biennial filing. Due to the nature and cost of the sampling and reporting procedures required of all utilities under Part 290, small utilities with total annual electric energy sales, for purposes other than resale, of less than 1 billion kilowatt-hours arguably have a disproportionately large financial burden under Part 290. This burden may not be significantly reduced simply due to the smaller number of ratepayers which small utilities have. As a result, the burden on small utilities, and their ratepayers, may be greater than for larger utilities.[9] Small utilities nevertheless state that, while the load research required under section 133 may yield useful information, the cost-benefit relationship of the data collection and reporting program for small utilities is unknown at this time.

Despite the extension of time to file provided in § 290.102(d), the Commission has received many requests for either an extension of time to file or exemption from specific reporting requirements, containing case-specific information on the impact of the Part 290 requirements. Forty-six of the sixty-three small utilities to which the section 133 regulations apply have sought one of these forms of relief. Generally, these applications of small utilities state that certain reporting requirements are inappropriate, inapplicable, or unduly burdensome.

The small utilities seeking relief from the section 133 reporting requirements argue that they have insufficient resources to collect the data required and to prepare adequate reports. In their applications for relief, many small

---

[2] Final Regulations, "Collection of Cost of Service Information Under Section 133 of the Public Utility Regulatory Policies Act of 1978" (Docket No. RM79–6), issued June 5, 1979, 44 FR 33847 (June 13, 1979), *codified at* 18 CFR Part 290.

[3] 44 FR at 33851.

[4] "Burdensome and Unnecessary Reporting Requirements of the Public Utility Regulatory Policies Act Need to be Changed," September 14, 1981, EMD–81–105.

[5] *Id.* at 16–17.

[6] Notice of Inquiry, "Collection of Cost of Service Information Under Section 133 of the Public Utility Regulatory Policies Act of 1978," (Docket No. RM82–13), issued January 29, 1982, 47 FR 5437 (February 5, 1982).

[7] A utility may seek an extension of time to file under § 290.602 by showing good cause for the extension sought.

[8] 44 FR at 33851.

[9] A preliminary review of the comments filed in the Notice of Inquiry, Docket No. RM82–13, indicates that many small utilities believe that, based on analyses of program costs for small utilities, their ratepayers will be disproportionately burdened by the Part 290 requirements. This argument is also made in the petition of the American Public Power Association, "Motion For Stay of Filings Under Section 133 of the Public Utility Regulatory Policies Act," Docket No. EL82–13–000 (March 31, 1982).

utilities contend that data collection is especially expensive for them because they do not ordinarily collect the data required to be submitted. The cost of collecting this information, they argue, would unduly burden small utilities. The small utilities' requests for relief are therefore predicated on the belief that the reporting requirements are inappropriate for, and generally burdensome on, this class of utilities. In addition, the applications for extension and exemption claim that uniform application of the filing requirements is not justifiable in terms of the main purpose of section 133, which is to ensure that good cost of service information is available to the affected public, because the ratepayers of publicly- and cooperatively-owned utilities have ready access to this information in any case.

Several small utilities also cite the potentially anticompetitive effect of the reporting requirements. These utilities contend that the cost of complying with the reporting requirements inflates their rates and strains the ability of small utilities to remain competitive with larger utilities. Small utilities are required to spread the relatively high cost of compliance among fewer customers than larger utilities.

The Commission is reviewing the arguments presented by electric utilities, and particularly the small utilities, in the requests for extension of time to file or for exemption from certain requirements and by all commenters on the Notice of Inquiry. Reevaluation of the application and content of the requirements of Part 290 will require further study of the information obtained pursuant to the Notice. However, the imminent deadline for an initial filing by small utilities requires the Commission to act at this time, pending additional review.

The information which the Commission has obtained concerning the burden of compliance with Part 290 on small utilities presents significant issues about the suitability of the current reporting requirements. Therefore, the Commission finds that good cause exists for extending the initial filing date for small utilities under § 290.102(d). This one-year extension will defer until a later date many major expenses which small utilities would incur in association with current Part 290 requirements. In the meantime, the Commission will examine whether Part 290 might be made more useful and appropriate in terms of information that will be required from small utilities when they are required to file data under section 133 of PURPA.

III. Comment Procedure and Effective Date

The Commission finds, pursuant to 5 U.S.C. 553(b)(3)(B), that notice and comment procedure is, at this time, impracticable and contrary to the public interest. Small utilities are required to make an initial filing under section 133 of PURPA and Part 290 of the Commission's regulations by June 30, 1982. To comply with the Commission's regulations, small utilities are now, or shortly will be, expending resources to gather and to prepare the data for filing. Since the Commission is reevaluating the reporting requirements in Part 290 pursuant to the Notice of Inquiry, it would unduly burden utilities and ratepayers to permit expenses to be incurred collecting data which may later be found to be unnecessary or inappropriate. In order to provide adequate advance notice of Commission action so as to prevent unnecessary expenditures by small utilities in compiling data, Commission action should be finalized at the earliest date.

The Commission nevertheless invites interested persons to comment on this final rule. Copies of all comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM82-28-000. An original and 14 copies should be filed. All written submissions will be placed in the public file which will be established in this docket and made available for public inspection during regular business hours in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

The Commission, under 5 U.S.C. 553(d), also waives the 30-day delay in the effective date of this rule since the rule relieves a regulatory obligation by providing a temporary exemption from a filing requirement for a class of utilities. In addition, the Commission finds, for the above mentioned reasons, that good cause exists for making this amendment effective immediately.

List of Subjects in 18 CFR Part 290

Electric utilities, Penalties, Reporting and recordkeeping requirements, Uniform System of Accounts.

(Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 3 CFR 142 (1978); and the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601-2645 (1978))

In consideration of the foregoing, Part 290 of Chapter 1, Title 18 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 290—COLLECTION OF COST OF SERVICE INFORMATION UNDER SECTION 133 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

§ 290.102 [Amended]

Section 290.102(d) is amended by deleting "June 30, 1982" and inserting in lieu thereof "June 30, 1983".

[FR Doc. 82-14282 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FAP 1H5278/T90; PH-FRL 2129-3]

Chlorothalonil; Tolerances for Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation permitting the combined residues of the fungicide chlorothalonil and its metabolite in citrus oil. This regulation to permit the marketing of citrus oil while further data are being collected on the fungicide was requested by Diamond Shamrock.

EFFECTIVE DATE: Effective on May 26, 1982.

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

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice in the Federal Register of April 21, 1982 (47 FR 17113) which announced that Diamond Shamrock Corp., Agricultural Chemicals Division, 1100 Superior Ave., Cleveland, OH 44114, had submitted food additive petition 1H5278 to the EPA proposing that 21 CFR Part 193 be amended by establishing a regulation permitting the combined residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite (4-hydroxy-2,5,6-

trichloroisophthalonitrile) in citrus oil at 10 parts per million (ppm) resulting from the preharvest application of the fungicide to citrus in connection with an experimental use permit.

No comments were received in response to this notice of filing.

The data submitted in the petition and all other relevant material have been evaluated. The scientific data submitted in support of the regulation were two 2-year dog feeding studies with no-observed-effect levels (NOEL's) of 60 ppm, an 18-month rat feeding study with a NOEL of less than 500 ppm, a 2-year rat feeding study with a NOEL of 60 ppm, a 3-generation rat reproduction study with a NOEL of 5,000 ppm, a second 3-generation rat reproduction study with a NOEL of 15,000 ppm, and a series of mutagenicity studies. Based on the dog feeding studies, the NOEL is calculated to be 60 milligrams (mg)/kilogram (kg)/day. Using a 100-fold safety factor, the allowable daily intake (ADI) is 0.015 mg/kg/day and the maximum permissible intake (MPI) is 0.9 mg/day for a 60-kg person. The establishment of this regulation results in a theoretical exposure of 0.0005 mg/day and utilizes 0.05 percent of the ADI. Established tolerances and this tolerance result in a maximum theoretical exposure of 0.7685 mg for a 60-kg person and utilizes 85.39 percent of the ADI. Tolerances ranging from 0.1 to 15 ppm have previously been established for the combined residues of chlorothalonil and its metabolite in or on a variety of raw agricultural commodities (40 CFR 180.275).

It is has been determined that the fungicide may be safely used in accordance with the provisions of the experimental use permit (677-EUP-20) that is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The fungicide is considered useful for the purpose for which the regulation is sought, and it is concluded that the fungicide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended, (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) *et seq.)* Therefore, the regulation is established as set forth below.

A related document (PP 1G2448/T369) establishing a temporary tolerance for the combined residues of chlorothalonil and its metabolite in or on the raw agricultural commodity citrus at 0.1 ppm appears elsewhere in this issue of the **Federal Register.**

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register,** file written objections with the Hearing Clerk, at the address given above. 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 and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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 or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a 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: May 25, 1982.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 346(c)(1)))

List of Subjects in 21 CFR Part 193

Food additives, Pesticides and pests.

Dated: May 10, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Therefore, 21 CFR Part 193 is amended by establishing a new § 193.84 to read as follows:

§ 193.84 Chlorothalonil.

A regulation is established for the combined residues of the fungicide chlorothalonil (tetrachloroisophthalonitrile) and its metabolite (4-hydroxy-2,5,6-trichloroisophthalonitrile) in citrus oil at 10 parts per million (ppm) as a result of the preharvest application of chlorothalonil to growing citrus. This regulation expires December 31, 1983.

[FR Doc. 82-13929 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Removal of Certain Conditions on the Approval of the Iowa Permanent Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule: removal of two conditions on the approval of the Iowa State program.

SUMMARY: The State of Iowa has satisfied two of the conditions on the approval of the Iowa program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) by submitting two rules as program amendments. Iowa received conditional approval of its permanent program effective April 10, 1981, as announced in the **Federal Register** of January 21, 1981 (46 FR 5891-5892), subject to the correction of three minor deficiencies. Iowa submitted to the Department of Interior provisions satisfying two of the conditions on October 1, 1981. Approval of these two rules as program amendments will be reflected in 30 CFR Part 915.

EFFECTIVE DATE: The removal of the two conditions is effective May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur Abbs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone (202) 343-5361.

SUPPLEMENTARY INFORMATION:

Background on the Iowa Program Submission

On February 28, 1980, OSM received a proposed regulatory program from the State of Iowa. After providing opportunity for public comment and a review of the program submission, the Secretary of the Interior approved in part and disapproved in part the Iowa program. The Secretary's decision was published in the October 16, 1980, **Federal Register** (45 FR 68673-68686).

Under 30 CFR 732.13(f) the State of Iowa had 60 days (until December 15, 1980) from the date of publication of the Secretary's partial approval in which to submit a revised program for consideration. Iowa submitted its revised program for consideration on December 15, 1980.

On January 21, 1981, following a review of the amended program the Secretary approved the program subject to the correction of three minor deficiencies (46 FR 5885–5892). The approval was made effective April 10, 1981.

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981, **Federal Register** (46 FR 5885–5892).

Background on the Secretary's Conditional Approval

The Secretary of the Interior determined that the Iowa program contained three minor deficiencies:

1. Iowa did not have fully enacted regulations to provide for civil and criminal sanctions for violations of the Iowa law, regulations or of the conditions on permits and exploration approvals in accordance with section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845.

2. The Iowa Administrative Procedures Act required that an administrative hearing be held prior to the issuance of a cessation order. This requirement conflicts with section 521(a)(3) of SMCRA, which provides that a cessation order shall be issued immediately upon the expiration of the time for abatement if abatement has not been accomplished.

3. Iowa did not have fully enacted regulations establishing penalties to protect state employees during the performance of their duties in accordance with the protection afforded Federal employees under section 704 of SMCRA.

In accepting the Secretary's conditional approval, Iowa agreed to correct the regulation deficiencies concerning rules for proposal and assessment of civil penalties and protection of State employees by July 1, 1981, and the statutory deficiency concerning the issuance of cessation orders for failure to abate notices of violations by January 1, 1982.

Submission of Revisions and Public Comment

On October 1, 1981, OSM received from the Iowa Department of Soil Conservation, revisions to its permanent program intended to satisfy conditions "a" and "c".

OSM published a notice in the **Federal Register** on February 10, 1982, announcing receipt of these provisions and inviting public comment on whether the provisions submitted correct deficiencies 1 and 3 (47 FR 6029–6031). The public comment period ended on March 11, 1982. A public hearing scheduled for March 9, 1982, was not held because no one expressed a desire to present testimony (see 47 FR 9862). One written comment was submitted.

Condition number 2 specified in 30 CFR 915.11(b) will be removed when the Iowa Legislature enacts the necessary legislation. This notice today does not address that deficiency. The time allowed for the State to satisfy condition number 2 has been extended to September 1, 1982, by a final rule published February 23, 1982, in the **Federal Register** (47 FR 7829–7830).

Secretary's Findings

The Secretary finds the program amendments submitted by Iowa on October 1, 1981, satisfy conditions 1 and 3 of the Iowa program as follows:

1. Iowa amended rule 780–4.6(83) by adding a new sub-rule 4.6(8) for civil penalties. It commits the State to institute a civil action to recover a civil penalty whenever a violation has resulted in a cessation order. The rule also covers the amount of penalty recommended, procedures for providing notice to the operator of the penalty recommended, and a provision for a hearing. The Secretary finds this rule does satisfy condition number 1 and is consistent with the requirements of section 518(a) of SMCRA. However, in the Secretary's Findings 4(h)(3), published in the January 21, 1981, **Federal Register** (46 FR 5885–5892), OSM stipulated that if the requirement for prepayment of civil penalties into an escrow account under Section 518(c) of SMCRA was held constitutional by the courts then considering the issue, the Secretary would require the Iowa permanent program to comply with the requirement. The court cases on constitutionality that had prevented the Secretary from enforcing the provision have now been decided. The preliminary injunction in *Star Coal Co.* v. *Andrus*, 14 ERC 1325 (USDC/S.D. Ia), was dissolved on July 27, 1981, and the case was dismissed. In two cases before the U.S. Supreme Court, the issue of the constitutionality of SMCRA section 518(c) was dismissed on the grounds that the issue was not ripe for the Court to decide. See *Hodel* v. *Virginia Surface Mining and Reclamation Association*, 16 ERC 1027; *Hodel* v. *Indiana*, 16 ERC 1048. Although the Supreme Court did not rule on the constitutionality of Section 518(c), the dismissal of the *Hodel* and *Star* cases removes the legal restraints on the Secretary's statutory obligation to require Iowa to comply with the prepayment provisions of section 518(c) and existing regulations.

Because the conditional approval of the Iowa program as specified at 30 CFR 915.11(a) did not require Iowa to include the prepayment of civil penalties into an escrow account, the Secretary finds that the Iowa program satisfies condition number 1.

However, the Secretary is proceeding under 30 CFR 732.17 with steps to require Iowa to include a provision in its program for prepayment of civil penalties into an escrow account.

2. As noted above, condition number 2 is not being considered at this time because the State has until September 1, 1982, to satisfy this condition. The Secretary extended the time for Iowa to satisfy this condition from January 1, 1982, to September 1, 1982, in a **Federal Register** notice published February 23, 1982 (47 FR 7829–7830).

3. Condition number 3 required Iowa to include a provision in its regulations that establishes penalties to protect State employees during the performance of their duties in accordance with section 704 of SMCRA or otherwise amend its program to accomplish the same result.

In response to this condition, the State amended its rules at section 780–4.35(83A), subrule 4.35(13) to include as a condition of a permit, that a permittee shall not willfully resist, prevent, impede, or interfere with the department or its agents in the performance of their duties. The Secretary finds that this rule makes the Iowa program consistent with section 704 of SMCRA.

Public Comment

In response to the February 10, 1982, **Federal Register** notice announcing the hearing and comment period on the amendments submitted by Iowa, OSM received one written comment from the Environmental Policy Institute, the Dubuque Audubon Society, the Environmental Coordinating Committee of Dubuque, Iowa, and Richard Worm, White Pine Group, Iowa Chapter of Sierra Club.

The commenters noted that Iowa submitted amendments to satisfy conditions "a" and "c" three months after the July 1, 1981, deadline specified by the Secretary in the January 21, 1981, **Federal Register** notice of conditional approval. Because the State did not request an extension of time, the commenters asserted, the Secretary's conditional approval of the Iowa program terminated as a matter of law on July 1, 1981.

It should be noted that Iowa adopted the rule correcting condition "c" on April 9, 1981, and the rule correcting condition "a" on January 30, 1981. Hence, the State had substantively complied with the conditions by the required deadline. In light of the State's action, OSM believes that termination of the Secretary's approval of Iowa's program is not warranted.

With regard to the amendments submitted by the State to satisfy condition "a" concerning Iowa's procedures for the proposal and assessment of civil penalties the commenters stated that the Iowa's provisions failed to do the following:

a. Provide for the administrative assessment of civil penalties in accordance with section 518(a) of SMCRA;

b. Provide for daily assessments of penalties for continuing violations in accordance with section 518(a) of SMCRA and 30 CFR 845.15;

c. Insure imposition of a mandatory $750/day penalty for failure to abate orders. (The commenters asserted that Iowa requires only that the Attorney General institute an action in court seeking at least $750/day);

d. Require payment into escrow of the proposed assessment of civil penalties in accordance with section 518(c) of SMCRA;

e. Establish a rational scheme to assure that uniform assessments of civil penalties are made.With regard to point a., OSM has determined that Iowa's program does, in fact, provide for the administrative assessment of penalties. Iowa has chosen to omit an assessment conference procedure in favor of a formal administrative hearing as its first step in review of a proposed assessment. The second level of review is judicial. In the Secretary's initial decision on the Iowa program submission (Finding 4(h), 45 FR 68678), the Secretary identified five aspects of the proposed Iowa system for proposal and assessment of civil penalties found to be inconsistent with Section 518 of SMCRA and 30 CFR 845.

These deficiencies were that (i) the proposed judicial assessment system did not adequately address the five considerations identified in the preamble to the permanent regulatory program at 44 FR 15296 (March 13, 1979). These considerations are used in determining whether a judicial system is the same or similar as the administrative system for proposal and assessment of civil penalties in section 518 of SMCRA; (ii) the proposed program did not provide procedures for proposing assessments of civil penalties, informing operators of the amount of those proposed assessments and providing an opportunity for payment of the penalty prior to a formal assessment hearing; (iii) the proposed program did not provide for mandatory assessment of civil penalties for cessation orders as required by section 518(a) of SMCRA; (iv) the program lacked criteria for determining when a civil penalty or an injunction would be sought when a notice of violation is issued under sections 14(8) and 15(1) of the ISCMA; and (v) the program did not provide for prepayment of civil penalties into a escrow account as required by section 518(c) of SMCRA. Iowa's resubmission addressed those deficiencies through an attorney general's opinion and a proposed amendment to rule 4.6(8) (see Administrative Record No. IA–146, Attachments 4 and 5). The Secretary reviewed the information and determined that, with two exceptions, the problems identified in the initial decision notice would be corrected if proposed rule 4.6(8) were enacted as proposed.

Iowa rule 4.6(8) was enacted as proposed and submitted by the State to satisfy condition "a". The adopted rule addresses all of the Secretary's concerns relating to the State's system for proposing and assessing penalties with one exception. The rule does not provide for the prepayment of civil penalties into an escrow account. However, as noted under Finding 1, the Secretary is taking steps to require the State to adopt such a provision through the procedures at 30 CFR 732.17. Therefore, with the one exception noted, the Secretary finds that Iowa's procedures for the proposal and assessment of civil penalties, although not identical to the procedures set forth under the Federal rules are, nonetheless, similar to those established in Section 518 of SMCRA and 30 CFR Part 845.

Concerning the commenters' point b., OSM has determined that § 83.15 (1) and (4) of the Iowa statute do provide for daily assessments of penalties for continuing violations in accordance with section 518(a) of SMCRA and 30 CFR 845.15. Under the Federal law and regulations the regulatory authority may assess a civil penalty for any type of violation and shall assess a civil penalty for a violation which leads to issuance of a cessation order. Each day of a continuing violation may be deemed a separate violation for the purposes of penalty assessment, with a maximum penalty of $5,000 for each violation. Whenever a violation has not been abated by the operator within the period permitted for correction a civil penalty of not less than $750 must be assessed for each day during which the failure continues. Section 83.15(1) of Iowa's statute provides that the Attorney General shall, at the request of the Iowa Department of Soil Conservation Committee (hereinafter referred to as the committee), institute a civil action in the district court for the assessment of a civil penalty not to exceed $5,000 for each day of a continuing violation. The Committee must request the Attorney General to institute a civil action for the assessment of a civil penalty for a violation leading to the issuance of a cessation order. If an operator fails to correct a violation within the period allowed for abatement, then, under § 83.15(4) of Iowa's statute, the Attorney General, at the request of the Committee, is required to institute a civil action for the assessment of a civil penalty of not less than $750 for each day during which the failure to correct the violation continues.

As the Secretary interprets Iowa's provisions, the Attorney General will, in every case, institute a civil action for the assessment of a civil penalty upon the request of the Committee. Thus, the Secretary finds that Iowa's program includes penalties no less stringent than, and procedures similar to, those for continuing violations contained in section 518(a) of SMCRA and 30 CFR 845.15.

Concerning the commenters' point c., OSM has determined that Iowa's program does insure imposition of a mandatory $750/day penalty for an operator's failure to abate a violation. Under § 83.15(4) of the Iowa statute, the Attorney General, at the request of the Committee, shall institute a civil action for the assessment of a civil penalty of *not less than* $750 for each day during which the operator fails to abate the violation. The Secretary interprets this to mean that in every case in which the operator fails to abate, the Attorney General will institute a civil action for the assessment of a civil penalty for an amount not less than $750. This is the equivalent of the Secretary assessing a civil penalty of $750 per day under section 518 of the Act because, in the event of nonpayment by an operator, the Secretary would have to bring a legal action to collect the penalties assessed; in both cases, the final decision would be made by a court.

Therefore, the Secretary finds that Iowa's program includes penalties for failure to abate no less stringent than those contained in section 518 of the Act.

As stated in the commenters' point d., the Iowa program does not contain a provision requiring prepayment of civil penalties into an escrow account. However, as noted above under Finding

1, the Secretary is proceeding under 30 CFR 732.17 with steps to require Iowa to include such a provision in its program.

With regard to the commenters' point e, that Iowa's program does not establish a rational scheme to assure the uniform assessment of civil penalties, OSM finds that in providing for the proposal and assessment of civil penalties Iowa has acted within the discretion granted States by Judge Flannery (*In Re: Permanent Surface Mining Regulation Litigation,* Civil No. 79–1144, D.D.C., February 26, 1980). Iowa's program incorporates the penalties and procedures set forth under section 518 of the Act and, therefore, meets the minimum requirements for the assessment of civil penalties as interpreted by Judge Flannery.

The commenters also stated that Iowa's provision to satisfy condition "c" regarding the protection of government employees carrying out their duties, is inadequate. The commenters asserted that the State's provision imposes an additional burden of proof on the prosecutor and that Iowa fails to provide for any prison term for such violations as required by section 704 of SMCRA. The Secretary believes that although Iowa has not enacted a law identical to section 704 of SMCRA, the State has provided protection for State employees comparable to that provided Federal employees under section 704 of SMCRA. Iowa has made it a condition of each permit issued under the State program that the permittee shall not willfully resist, prevent, impede, or interfere with the Department or any of its agents in the performance of their duties. This language ties in § 83.15(2) of the Iowa Act, which provides criminal penalties for violations of permit conditions. For violation of permit conditions operators are charged with a serious misdemeanor. The maximum penalties for a "serious misdemeanor" as set forth under Iowa Code Annotated, § 903.1.2, are $10,000 or one year in prison. These penalties are applicable not only to permittees who violate permit conditions but also to "wildcatters". Section 83.15(2) provides that person shall be subject to the penalties of that section for violation of a permit condition *or* for violation of any other provision of the Iowa statute. Section 83.4 of Iowa's Act requires operators to obtain a permit to mine. If an operator fails to obtain a permit, he is violating a provision of Iowa's Act and is, therefore, subject to the penalties set forth at § 83.15(2).

With respect to persons other than the permittee or wildcatters who interfere with department employees, Iowa's program does not include a single provision which provides the same penalties as section 704 of SMCRA. However, Iowa's penal code includes several provisions that make it a crime to assault, threaten or intimidate government emloyees or their agents in the performance of their duties. Iowa Code Annotated § 7.18.3 (Willful Disturbance) makes it a crime to disrupt government employees in any official conduct or proceeding. The crime is considered a serious misdemeanor and the maximum penalties are a $1,000 fine, one-year in jail, or both. Another Iowa statute, Iowa Code Annotated § 7.18.4 (Harassment of Public Officers and Employees), makes it a simple misdemeanor to willfully prevent or attempt to prevent any public officer or employee from performing his/her duties. The punishment is 30 days in jail or $100 fine. In addition Iowa Code Annotated § 710.1 (Kidnapping) includes a provision that makes it a felony to kidnap (meaning to confine or move against one's will) any person engaged in the performance of a government function. Iowa Code Annotated § 902.9 sets forth the maximum penalties for felonies which range from a $1000 fine and 5 years in jail or both to a jail sentence for life. Iowa's assault statutes (Iowa Code Annotated §§ 708.1–.8 include several provisions which make it a crime to interfere with government employees in the performance of their duties. Iowa Code Annotated § 708.1 defines assault as an act "intended to place another in fear of immediate physical contact which will be painful, injurious, insulting or offensive". Section 708.6 provides sanctions for terrorism which includes discharging weapons into cars or harassment with intent to promote fear. The maximum penalties are 1–5 years in jail or $1000 or both. Iowa Code Annotated Section 708.7 imposes sanctions for harassment which is defined as an "intent to intimidate, annoy or alarm" through one of several acts which can lead to false reports. Hence, although Iowa's program does not contain a provision identical to section 704 of SMCRA, OSM believes that the State program provision which makes it a permit condition that operators not interfere with department employees, together with the various other Iowa statutes which impose criminal sanctions for interference with government employees satisfy the intent of SMCRA and provide protection to State employees comparable to that provided Federal employees under section 704 of the Act.

Concerning the commenters' assertion that Iowa's law imposes an additional burden of proof on the prosecutor to show that the person who violated a permit condition did so "willfully and knowingly", OSM believes that the burden of proof on the prosecutor is the same under Iowa's law as under SMCRA. Section 704 of SMCRA provides that any person who shall "Willfully" resist, prevent, impede or interfere with the Secretary or any of his agents in the performance of their duties shall be punished. Hence, the burden of proof under both SMCRA and Iowa's law is on the prosecutor to show that the action of the violator was "willful".

Approval of Amendments to Satisfy Conditions

Accordingly, conditions 1 and 3 are hereby removed and 30 CFR Part 915 is amended to indicate approval of the Iowa program amendments submitted to OSM on October 1, 1981.

Additional Findings

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval. On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 6, and 8 of Executive Order 12291 for all actions taken to approve or conditionally approve state regulatory programs, actions, or amendments. Therefore, these program amendments are exempt from the preparation of a Regulatory Impact Analysis and regulatory review by OMB.

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 129(d), this rule is not a major Federal action. It is hereby designated as a categorical exclusion from the NEPA process. Therefore, for this rule OSM is exempt from the requirements of an Environmental Assessment, EIS or FONSI.

Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

On March 23, 1982, the Environmental Protection Agency transmitted its written concurrence on the Iowa program amendments.

List of Subjects in 30 CFR Part 944

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, Part 915 of Title 30 is amended as set forth herein.

Dated: May 19, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 915—IOWA

1. 30 CFR 915.10 is revised to read as follows:

§ 915.10 State Regulatory program approval.

The Iowa program as submitted February 28, 1980, and as amended and clarified June 11, 1980 and December 15, 1980 was approved effective April 10, 1981. The amendments submitted October 1, 1981, are also approved effective upon publication. Copies of the approved program, as amended, are available at:

(a) Iowa Department of Soil Conservation, Mines and Minerals Division, Wallace State Office Building, Des Moines, Iowa 50319

(b) Office of Surface Mining Reclamation and Enforcement, 818 Grand Avenue, 5th Floor Scarritt Building, Kansas City, Missouri 64106, Telephone (816) 374–3920

(c) Office of Surface Mining Reclamation and Enforcement, 1100 L Street, NW., Washington, D.C.

2. Section 915.11 is amended by removing and reserving paragraphs (a) and (c):

§ 915.11 Condition of state regulatory program approval.

(a) [Reserved]

(b) * * *

(c) [Reserved]

[FR Doc. 82-14370 Filed 5-25-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 2117-6]

Approval and Promulgation of State Implementation Plans: Nebraska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to unconditionally approve local air pollution control ordinances for the cities of Omaha and Lincoln, and for Lancaster County as revisions to the Nebraska State Implementation Plan (SIP). Action is also being taken to revoke federally promulgated rules for visible emissions. Proposed action on these measures was published on September 15, 1977 at 42 FR 46371. No comments were received. Since publication of the proposed rulemaking the state has officially withdrawn portions of the ordinances which were either unapprovable or not appropriate for incorporation into the SIP.

DATES: Effective date: This action will be effective on July 26, 1982 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Comments should be directed to Eloise Reed, Air Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

The submitted SIP revisions are available for review during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Room 2922, 401 M Street S.W., Washington, D.C. 20460

Air Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106

Nebraska Department of Environmental Control, 301 Centennial Mall, Lincoln, Nebraska 68509

Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT: Eloise Reed, Air Planning and Development Section, Air Branch, Air and Waste Management Division, Environmental Protection Agency, 324 East 11th Street, Kansas City, Missouri 64106. Phone (816) 374–3791, FTS: 758–6525.

SUPPLEMENTARY INFORMATION: On May 31, 1972, the Administrator of EPA approved the Nebraska SIP, which included local ordinances for Lincoln and Omaha. On September 15, 1977, EPA proposed action on revisions to those local ordinances, the inclusion of ordinances for Lancaster County into the SIP, and the revocation of federally promulgated rules for visible emissions. No comments were received. The state has not adopted additional changes to any of these local ordinances since submittal.

The 1973 supplement of the Omaha Air Quality Control Ordinance rather than the 1974 supplement was inadvertently sent to EPA by the state and subsequently made available to the public in September 1977 at the time of proposed rulemaking. However, the state met all procedural requirements of 40 CFR 51.4 for the 1974 supplement prior to adoption. The major differences in the two supplements are summarized below:

1. The 1974 supplement includes indirect source review procedures in section 45.04.050.

2. The 1974 supplement expands section 45.05.020, "Restriction of Sulfur Compounds", to include emission rates for sulfur dioxide from fossil fuel fired burning equipment, and maximum ground level concentrations for hydrogen sulfide.

On March 26, 1982, Governor Charles Thone of Nebraska officially withdrew from consideration as SIP revisions, Prevention of Significant Deteriorations regulations in Lincoln and Lancaster County; malfuction regulations in Omaha, Lincoln, and Lancaster County; and variance provisions in Omaha. These provisions are patterned after state regulations which either have been or are expected to be revised shortly for consistency with Federal requirements. All New Source Performance Standards in the ordinances were also withdrawn, because they are not appropriate for incorporation into the SIP.

The approved revisions to the SIP would incorporate the Lancaster County Air Pollution Control Resolution (effective January 4, 1977), the City of Omaha Air Quality Control Ordinance (effective September 24, 1974), and the City of Lincoln Air Pollution Control Ordinance and Regulations and Standards (effective June 21, 1976). The changes in the ordinances for incorporation into the Nebraska SIP, and the resulting revisions required for Part 52 of Title 40 of the Code of Federal Regulations (CFR) are summarized below.

SIP Revisions

1. *Legal authority.* Under the revised Lincoln Air Pollution Control Ordinance, the Department of Health now has the authority (1) to require installation of monitoring devices, (2) to make periodic tests and inspections of sources, and (3) to require the owners or operators of stationary sources to maintain records and make periodic reports on the nature and amount of emissions. Section 52.1424 which previously found Lincoln's legal authority for source surveillance inadequate is now revoked.

2. *Source surveillance.* Section 52.1429 is revoked and reserved in its entirety for the following reasons:

a. State procedures for source surveillance which are found inadequate in § 52.1429(a) have been revised by Nebraska and approved by EPA.

Through an omission the section was not revoked in the final rulemaking on the action on June 23, 1976, (41 FR 25898). It is now revoked.

b. Because Lincoln now has legal authority for source surveillance, as described above, § 52.1429 (c) and (e) which found Lincoln's legal authority inadequate are now revoked.

c. On February 22, 1974, applicability of state emission limitations was expanded from Douglas, Lancaster and Sarpy Counties to include the entire state. EPA promulgated approval of this action on September 9, 1975 (40 FR 41778). For this reason, the federally promulgated regulation for control of visible emissions for Jefferson, Thayer and Gage Counties, § 52.1429(g), which was inadvertently not revoked at 40 FR 41778, is now revoked.

d. Sections 52.1429 (b), (d), and (f), the remainder of § 52.1429, which were formerly reserved are now revoked.

3. *Indirect source review.* EPA approves the procedures for indirect source review included in the Lincoln, Omaha and Lancaster County ordinances. Under section 110(c) of the Act, EPA retains the authority to promulgate, implement and enforce regulations for indirect source review which apply only to federally assisted highways, airports, and other major federally assisted or federally owned or operated indirect sources. It may be necessary to require revisions to the local ordinances if they are affected by future promulgations under this authority.

EPA has determined that the SIP revisions meet the requirements of section 110 of the Clean Air Act and 40 CFR Part 51.

Action

EPA approves the submitted SIP revisions and incorporates them into the Nebraska SIP.

Because considerable time has elapsed since publication of the notice of proposed rulemaking and the wrong ordinance for Omaha was made available for public review in 1977, EPA is taking final action but providing a mechanism for additional public comment. The public should be advised that this action will be effective July 26, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 26, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307(b)(2).)

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: May 19, 1982.

Anne M. Gorsuch,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Nebraska was approved by the Director of the Federal Register on July 1, 1981.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart CC—Nebraska

1. Section 52.1420 is amended by adding paragraphs (c) (23) and (24) to read as follows:

§ 52.1420 Identification of plan

* * * * *

(23) Revision to the SIP concerning the adoption of the Lancaster County Air Pollution Control Resolution was submitted by the governor on April 4, 1977.

(24) Revision to the SIP concerning the adoption of the revised local air pollution control ordinances for the cities of Omaha and Lincoln was submitted by the governor on December 27, 1977.

§ 52.1424 [Reserved]

Section 52.1424 is removed and reserved.

§ 52.1429 [Reserved]

Section 52.1429 is removed and reserved.

[FR Doc. 82-14170 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 62

[A-4-FRL 2114-7]

Kentucky: Plans for Control of Sulfuric Acid Mist, Total Reduced Sulfur, and Primary Aluminum Fluorides; Negative Declaration for Phosphate Fluorides

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Pursuant to section 111(d) of the Clean Air Act and EPA's implementing guidelines, the Commonwealth of Kentucky has adopted and submitted to EPA plans for the control of "designated" pollutants. The Commonwealth's Department for Natural Resources and Environmental Protection (DNREP) submitted plans for the control of sulfuric acid mist, total reduced sulfur (TRS) and primary aluminum fluorides. These plans establish emission limits for the three subject pollutants emitted by the designated facilities. The Commonwealth has also submitted a negative declaration for fluorides from phosphate fertilizer plants. EPA today announces approval of the plans and the negative declaration.

EFFECTIVE DATE: This action will be effective on July 26, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

Environmental Protection Agency, EPA Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Kentucky Department for Natural Resources and Environmental Protection, Division of Air Pollution Control, 18 Reilly Road, Bldg. #2 Fort Boone Plaza, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Russell, EPA Region IV, Air Programs Branch, at the above listed address or, phone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: In accordance with section 111 of the Clean Air Act (amended August 1977, Pub. L. No. 95-95), "Standards of Performance for New Stationary Sources," EPA has promulgated

standards of performance for criteria pollutants (those for which National Ambient Air Quality Standards have been published) and non-criteria pollutants. The standards apply to "new" sources (i.e., new, modified, or reconstructed sources) which commenced construction after the date on which EPA proposed standards for that particular source category.

Paragraph (d) of section 111 requires States to develop plans for the control of emissions of the same non-criteria, or designated, pollutants from existing sources which are regulated from the new source category. "Existing" sources were defined as those which are present prior to the date on which EPA proposed new source performance standards for that particular source category. The requirements for such plans are set forth in subpart B of 40 CFR Part 60 (November 17, 1975; 40 FR 53346).

On December 15, 1981 Kentucky submitted plans for controlling sulfuric acid mist, total reduced sulfur, and primary aluminum fluorides. The plans for sulfuric acid mist and total reduced sulfur were adopted by Kentucky on June 6, 1979, while the plan for primary aluminum fluorides was adopted on November 5, 1981. The Commonwealth submitted a negative declaration with respect to fluoride emissions from phosphate fertilizer plants on August 25, 1978. The negative declaration certified that Kentucky had no sources in this category.

Sulfuric Acid Mist Plan

The sulfuric acid mist plan establishes an acid mist emission limitation for sulfuric acid producers (0.25 kg/metric ton or 0.5 pounds per ton) consistent with the recommended emission limitation in EPA's final guideline document. This regulation specifies emission standards and test methods.

Total Reduced Sulfur Plan

The total reduced sulfur plan establishes total reduced sulfur emission limitations for existing kraft pulp mills. The plan requires:

(1) 98 percent removal of TRS emission from digester relief, blow tank relief, evaporator hot wells or multiple effect evaporators.

(2) Recovery furnace TRS emissions should not exceed 15 parts per million by volume expressed as an arithmetic average over any consecutive 24-hour period.

(3) Recovery furnace emissions should not exceed 40 parts per million by volume for more than 60 total minutes in any 24 hour period.

The plan not only includes the above emission limitations but also specifies the test methods and procedures for compliance determination.

Primary Aluminum Fluoride Plan

The plan for controlling emissions of fluorides from existing primary aluminum plants specifies the following emission limits:

(1) Total fluoride emissions from scrubbing plants are limited to 1.9 lbs./ton of aluminum produced, except that emissions between 1.9 lbs./ton and 2.5 lbs./ton will be considered in compliance. This variance will be granted if the owner or operator can demonstrate to Kentucky's satisfaction that good maintenance operating procedures were followed, and the proper control equipment was operating during the performance test.

(2) Gaseous fluoride emissions from pot room roof monitors in wet scrubbing plants are limited to 3.25 lbs./hr.

(3) Gaseous fluoride emissions from any primary control system in wet scrubbing plants are limited to 1.0 lbs./ton of aluminum produced.

The plan also specifies adequate test methods and procedures.

Action

After reviewing the plans EPA has determined that they are adequate in all areas. EPA is today approving Kentucky's 111(d) plans for control of sulfuric acid mist, total reduced sulfur and fluoride emissions from primary aluminum plants and a negative declaration for phosphate fertilizer plants. This is being done without prior proposal because the plans are noncontroversial and have limited impact and no comments are anticipated, as all affected sources are reported to be in compliance with applicable State regulations.

The public should be advised that this action will be effective on July 26, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 26, 1982. This action may not be challenged later in proceedings to enforce its requirements. (See sec. 307 (b)(2).)

Under 5 U.S.C. 605(b), the Administrator has certified that 111(d) approvals do not have a significant economic impact on a substantial number of small entities. This action only approves State actions. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 62

Air pollution control, Fluoride, Sulfur, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements.

(Secs. 111 and 301(a) of the Clean Air Act (42 U.S.C. 7411 and 7601(a))

Dated: May 19, 1982.

Anne W. Gorsuch,

Administrator.

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

Part 62 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart S is added to read as follows:

* * * * *

Subpart S—Kentucky

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

Sec.

62.4350 Identification of plan.

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

62.4351 Identification of sources.

Total Reduced Sulfur From Existing Kraft Pulp Mills

62.4352 Identification of sources.

Fluoride Emissions From Existing Primary Aluminum Reduction Plants

62.4353 Identification of sources.

Fluoride Emissions From Phosphate Fertilizer Plants

62.4354 Identification of plan negative declaration.

62.4355–62.4369 [Reserved]

* * * * *

Subpart S—Kentucky

Plan for the Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

§ 62.4350 Identification of plan.

(a) Identification of plan: Kentucky Designated Facility Plan (Section 111(d) Plan).

(b) The plan was officially submitted as follows:

(1) Control of sulfuric acid mist emissions from existing facilities at sulfuric acid plants, total reduced sulfur

emissions from existing facilities at kraft pulp mills, fluoride emissions from existing facilities at primary aluminum reduction plants, officially submitted on December 15, 1981.

(c) Designated facilities: The plan applies to existing facilities in the following categories of sources:

(1) Sulfuric acid plants.

(2) Kraft pulp mills.

(3) Primary aluminum reduction plants.

Sulfuric Acid Mist From Existing Sulfuric Acid Plants

§ 62.4351 Identification of sources.

The plan applies to existing facilities at the following sulfuric acid plant: E.I. du Pont sulfuric acid plant in Wurtland, Ky.

Total Reduced Sulfur From Existing Kraft Pulp Mills

§ 62.4352 Identification of sources.

The plan applies to existing facilities at the following kraft pulp mills:

(a) Westvaco Corp., Fine Papers Division, Wickliffe, Ky.

(b) Willamette Industries, Corrugated Medium Mill and Bleached Pulp Mill, Hawesville, Kentucky.

Fluoride Emissions From Existing Primary Aluminum Reduction Plants

§ 62.4353 Identification of sources.

The plan applies to existing facilities at the following primary aluminum reduction plants:

(a) National Southwire Aluminum, Hawesville, Ky.

(b) Anaconda Company, Aluminum Division, Henderson, Ky.

Fluoride Emissions From Phosphate Fertilizer Plants

§ 62.4354 Identification of plan—Negative declaration.

The Kentucky Department for Natural Resources and Environmental Protection certified in a letter dated August 25, 1978, that Kentucky has no designated facilities in this source category.

§§ 62.4355–62.4369 [Reserved]

[FR Doc. 82-14168 Filed 5-25-82; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 0E2378/R447; PH FRL 2129-6]

Nitrapyrin/ Tolerance for Pesticide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the soil microbiocide nitrapyrin [2-chloro-6-(trichloromethyl)pyridine] and its metabolite 6-chloropicolinic acid in or on strawberries. This regulation to establish a maximum permissible level for combined residues of nitrapyrin in or on strawberries was requested by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on May 26, 1982.

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

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 716B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice of proposed rulemaking in the **Federal Register** of March 31, 1982 (47 FR 13537) which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number 0E2378 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, establish a tolerance for residues of 6-chloropicolinic acid in or on strawberries at 0.2 part per million (ppm), resulting from use of the soil microbiocide nitrapyrin [2-chloro-6-(trichloromethyl)pyridine] on the raw agricultural commodity strawberries. The petition was later amended to propose the tolerance in terms of the combined residues of nitrapyrin and its metabolite, 6-chloropicolinic acid. Residue data to support the use on strawberries are from tests conducted in California.

No comments were received in response to this notice of proposed rulemaking.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the notice of proposed rulemaking (47 FR 13537, March 31, 1982). The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that establishment of the tolerance will protect the public health. Therefore, 40 CFR 180.350 is amended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. 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 and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Effective on: May 26, 1982.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 12, 1982.

James M. Conlon,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.350 is amended by adding and alphabetically inserting the raw agricultural commodity strawberries to read as follows:

§ 180.350 Nitrapyrin; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Strawberries	0.2
* * * * *	

[FR Doc. 82-13933 Filed 5-25-82; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[FCC 82-233]

Processing of Pending Space Station Applications in the Domestic Fixed Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Order establishing agency procedures.

SUMMARY: This order establishes a procedure to process, as a group, all domestic satellite space station applications on file at the time of its adoption. Due to the inter-relationships between all domestic satellites when assigning orbital locations and adopting orbital spacing criteria, pending applications must be considered as a group with presently authorized domestic satellites. This will ensure sound decisions regarding orbital spacings and a revised orbital deployment plan.

DATE: Effective May 18, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald J. Lepkowski, Common Carrier Bureau, (202) 632-5930.

SUPPLEMENTARY INFORMATION:

In the matter of processing of pending space station applications in the domestic fixed satellite service.

Memorandum Opinion and Order

Adopted: May 18, 1982.

Released: May 20, 1982.

1. In CC Docket No. 81-704, we are examining the technical bases for reductions in orbital spacings between domestic satellites in the 4/6 and 12/14 GHz bands so that more satellites can be launched to satisfy growing user demand. *Domestic Fixed Satellite Service*, 88 FCC 2d 318 (1981). There we stated our intention to implement reduced orbital spacings in a revised orbital deployment plan for specific satellites at the earliest practical date. *Id.* at 323. A significant number of new domestic satellite proposals have been filed since the opening of that docket. They must be considered together with the presently authorized domestic satellites so that sound decisions regarding orbital spacings and a revised orbital deployment plan can be made. We are therefore going to process as a group all of the pending space station applications. Space station applications filed after the adoption of this order will be processed after those presently on file.

2. From the time we decided to accept applications for domestic satellite systems in *Domestic Communications Satellite Facilities*, 22 FCC 2d 86 (1970) (*Domsat I*), we have sought to fashion a flexible domestic space station authorization process that allows applicants to develop economical and innovative satellite services in a prompt and orderly manner. Potential domestic satellite operators are required to file a complete and comprehensive proposal for their system and services. *Id.* at 98. *See also, Domestic Fixed Satellite Service*, 77 FCC 2d 956 at 962-963 (1980) (*Processing Order*). We have not attempted to prescribe by rule domestic satellite designs or services in advance of the submission of construction permit applications. However, an applicant must demonstrate its financial, technical and legal qualifications and its ability to immediately proceed with the construction and operation of the proposed system. *Processing Order* at 960. Applicants also must make a sufficient showing of potential public benefit to justify the assignment of orbital locations and frequencies. *Domestic Communications Satellite Facilities*, 35 FCC 2d 844 at 850-851 (1972) (*Domsat II*). *See also, Orbital Deployment Plan*, 84 FCC 2d 584 (1981). We also expressly advised parties that, while the Commission welcomes submission of applications and gives them all serious consideration, the extension of the opportunity to file, and the expenditure involved in preparing an application, do not in any way indicate that the application will be granted in whole or in part. *Domsat I* at 94.

3. The courts have endorsed our licensing policies, and recognized the need to tailor our procedures to the specific characteristics of the satellite industry. In upholding one such licensing decision, the reviewing court stated:

> Ever since the decision in *Domsat II* the FCC has designed its procedures to minimize delay in developing the domestic satellite industry. This court has specifically approved that approach. *Network Project v. FCC*, [511 F.2d 786 (D.C. Cir. 1975)] at 797 n.13. In this dynamic and technologically innovative industry, a proposed venture may become obsolete in just a few years. Even without regulatory delay, a satellite firm is faced with the daunting prospect of time-consuming research and construction, which entail advance planning and risky lead time—and which may lead to naught. To delay a proposed project six months will increase capital cost and diminish technological advantage; to delay it a year or more may destroy its attractiveness as an investment. . . . We recognize that the need for expedition will not justify an agency's failure to carry out its statutory responsibilities, but the relative urgency of a decision is a thoroughly appropriate factor for an agency to consider when crafting its procedures.

United States v. FCC, 652 F.2d 72 (D.C. Cir. 1980) at 95 (footnotes omitted).

4. Sections 4(i) and 4(j) of the Communications Act, 47 U.S.C. 154(i) and (j), afford the Commission wide discretion in establishing procedures to facilitate the orderly conduct of its business. For example, this authority includes our determinations of the manner and sequence in which we consider applications. *FCC v. Pottsville Broadcasting Company*, 309 U.S. 134, 138 (1940); *Kessler v. FCC*, 326 F.2d 673 (D.C. Cir. 1963). In exercising our licensing authority it is imperative that we fashion our processes in accordance with the characteristics of each service. Thus our procedures must take into account the actual characteristics of the domestic satellite industry. Many of the newly proposed satellites are planned for launch as early as 1986. With the normal 3 year construction lead time, authorizations must soon be issued if the availability of additional satellites to serve users is not to be delayed. The pending applications present a wide array of proposed services and technical designs. In some cases, conflicting requests are made by two or more applicants for the same orbital locations. Although this situation does not give rise to comparative hearing rights, the applications must be considered together so that the Commission may assign orbital locations to best serve the public interest. Thus the orbital location assigned to a satellite may or may not be the one requested by the applicant. *See Western Union Telegraph Company*, 46 FCC 2d 162 (1974); *Orbital Deployment Plan, supra; Processing Order, supra.*

5. In particular, the various system applications are inter-related with respect to the orbital spacings required between pairs of satellites to keep interference levels within acceptable limits. Our objective is to develop an orbital deployment plan that most efficiently uses the limited orbital arc capable of serving the United States. This would maximize the number of domestic satellites available to satisfy growing user demand in an increasingly competitive market. We must, however, take into account the specific parameters of each proposed domestic satellite. Only then can we effectively assign orbital locations and adopt orbital spacing criteria. This difficult and complex process requires analyses of the actual proposals under consideration. A new proposal could require that the analysis process be repeated from the start, and delay a decision on any of the pending

applications because of the inter-relationships between all domestic satellites. Thus, the most practical way to reach a determination on any of the pending applications under our current procedures is to consider all of them as a group for consolidated treatment.

6. We wish to emphasize that, in using this group approach to the applications which are presently on file, we are not precluding the filing of new applications, either in the presently used 4/6 GHz and 12/14 GHz bands, or in the currently unused 18/30 GHz bands. However, it is essential that we make most efficient use of the 4/6 and 12/14 GHz bands where the immediate demand for orbital locations is the greatest. Prompt decisions require a grouping of space station applications at this time. Later filed applications will be reviewed subsequently in light of the determinations we will reach in CC Docket No. 81-704. We do not believe this action will bar favorable action on additional applications for new domestic satellites in the future. While it may become increasingly difficult to accommodate additional satellites in the 4/6 and 12/14 GHz bands, the opportunities for applicants to file applications for new domestic satellite systems in the 18/30 GHz bands are great. Our objective is to accommodate the existing and proposed systems in a way that maximizes the opportunity for additional satellites to be launched so that our present open entry policies for the domestic satellite market can be continued.

7. This order shall become effective at the time of its adoption, i.e. at 11:15 a.m. (EDST), May 18, 1982. Because it is related to matters of agency practice and procedure, the Commission is not required to follow the public rulemaking procedure prescribed by section 553 of the Administrative Procedure Act, 5 U.S.C. 553. Furthermore, delay in implementing this procedure may well encourage a large number of speculative new filings. This would impair our ability to act expeditiously on currently pending applications. This in turn would be contrary to the public interest in the timely and orderly provision of additional domestic satellite services.

8. Accordingly, it is ordered that the policies and procedures specified herein are adopted pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, 47 U.S.C. 154(i) and (j), and that the applications whose file numbers are listed in the Appendix to this order, as well as those domestic space station applications that may be filed by the time of adoption specified above, shall be considered as a group with respect to further processing by the Commission.

9. It is further ordered that domestic space station applications filed after the time of adoption specified above shall be processed after processing is completed on the applications listed in the Appendix to this order. As an exception, action may be taken separately on requests for authority to launch satellites for which construction authority was granted prior to the date of this order.

10. It is further ordered that the Secretary of the Federal Communications Commission shall cause this order to be published in the **Federal Register** at the earliest practical date.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix—Pending Domestic Space Station Applications

Advanced Business Communications, Inc.
- 1361-DSS-P/LA-82
- 1362-DSS-P/LA-82
- 1363-DSS-P-82

American Satellite Company
- 521-DSS-P/LA-82
- 522-DSS-P/LA-82
- 523-DSS-P-82

American Telephone and Telegraph Company
- 234-DSS-LA-82

Hughes Communications, Inc.
- 2115-DSS-LA-81

Rainbow Satellite, Inc.
- 1453-DSS-P/LA-82
- 1454-DSS-P/LA-82
- 1455-DSS-P-82

RCA American Communications, Inc.
- 1810-DSS-P/LA-81
- 604-DSS-P/LA-82
- 1457-DSS-P/LA-82
- 1458-DSS-P/LA-82
- 1459-DSS-P/LA-82
- 1460-DSS-P-82

Satellite Business Systems
- 1461-DSS-LA-82
- 1462-DSS-P/LA-82

Southern Pacific Communications Company
- 889-DSS-P/LA-80
- 1084-DSS-P/LA-80

United States Satellite Systems, Inc.
- 448-DSS-P/LA-82
- 449-DSS-P/LA-82
- 450-DSS-P-82

Western Union Telegraph Company
- 723-DSS-P/LA-81

[FR Doc. 82-14340 Filed 5-25-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-775; RM-3942]

Radio Broadcast Services; FM Broadcast Station in Leland, Miss., and McGehee, Ark., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a second Class A channel to Leland, Mississippi, and substitutes one Class A channel for another at McGehee, Arkansas, in response to a petition filed by River Broadcasting Company, Inc.

DATE: Effective July 20, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Leland, Mississippi and McGehee, Arkansas); BC Docket No. 81-775, RM-3942.

Report and Order—Proceeding Terminated

Adopted: May 13, 1982.

Released: May 19, 1982.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 46 FR 58718, published December 3, 1981, proposing the assignment of Channel 272A to Leland, Mississippi, and the substitution of Channel 276A for unused Channel 272A at McGehee, Arkansas. The Notice was issued in response to a petition filed by River Broadcasting Company, Inc. ("petitioner"). Comments supporting the proposal were filed by the petitioner. Mid America Broadcasting Corporation, Inc.[1] submitted opposing comments, to which petitioner responded.

2. Leland (population 6,667),[2] in Washington County (population 72,344), is located approximately 136 kilometers (85 miles) northwest of Jackson, Mississippi. It is served by daytime-only AM Station WESY and FM Station WBAD (Channel 232A).

[1] Mid America Broadcasting Company, Inc. is the licensee of Stations WGVM (AM) and WDMS (FM), Greenville, Mississippi.

[2] Population figures are taken from the 1980 U.S. Census, Advance Report.

3. As requested by the Notice, petitioner submitted a preclusion study which indicates that only Tchula, Mississippi (population 1,729), will be affected by the assignment of Channel 272A to Leland. Channel 296A is said to be available for assignment to that community.

4. Mid America argues that another station in the Greenville-Leland area is not needed and would be seriously detrimental to the services it provides to the area. Inasmuch as Leland and Greenville are only 10 miles apart, the stations in the area compete for advertising revenues and listening audiences. Mid America further asserts that since Leland receives the signals of nine nearby stations, in addition to the local service, it could hardly be lacking in choices of programming, advertising media, or an opportunity for self-expression as claimed by the petitioner. It argues that at a time when the nation's economy (Greenville in particular) is in distress, another station in the area is unwarranted and certainly not in the public interest, and urges the Commission to rescind or set aside the rule making proposal.

5. Petitioner in reply argues that the opposition allegations that it will suffer economically and that adequate service is currently provided to Leland are unsupported. It also alleges that such a standard is not appropriate for denying an assignment. While it may be true that Leland is situated near several communities, petitioner alleges that Leland is an independent growing city with local broadcast needs and problems not addressed by the stations in those communities. Petitioner notes that contrary to the opposition's claim of a depressed economy, Leland in the last three years has had many new businesses commence operation and they have shown steady economic growth. Petitioner also refers to the Commission's FM assignment criteria, citing *Anamosa, Iowa,* 29 R.R. 2d 1700, 1706 (1974) which favors providing all communities with two local stations. Petitioner urges the Commission to deny the opposition's comments for lack of merit.

6. After evaluating the proposal and comments in this proceeding, we have concluded that the proposed assignment and substitution of channels would be in the public interest. While Leland is located in the Greenville SMSA, it still has its distinct needs, which can be better served by its own local facility. We believe that the petitioner has submitted sufficient information to warrant a second FM assignment to Leland. The issues raised by Mid America of a competitive nature should be considered at the application stage. See, *Rome, New York* 42 R.R. 2d 618 (1978). We also found that the preclusion impact is insignificant since an alternate channel is availalble to the precluded community.

7. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective July 20, 1982, the FM Table of Assignments (§ 73.202(b) of the Rules) is amended with respect to the following communities:

City	Channel No.
Leland, Miss	232A, 272A
McGehee, Ark	276A

8. It is further ordered, That this proceeding is terminated.

9. For further information concerning the above, contact Montrose H. Tyree, Broadcast Bureau (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Divisions Broadcast Bureau.

[FR Doc. 82-14338 Filed 5-25-82; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-873; RM-4003]

Radio Broadcast Services; FM Broadcast Station in Dyersville, Iowa, Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns Channel 257A to Dyersville, Iowa, in response to a petition filed by Dyersville Broadcasting Service, Inc. The assigned channel could provide a first FM service to Dyersville.

DATE: Effective July 20, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Dyersville, Iowa); BC Docket No. 81-873, RM-4003.

Report and Order—Proceeding Terminated

Adopted: May 13, 1982.

Released: May 19, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 47 FR 2135, published January 14, 1982, proposing the assignment of Channel 257A to Dyersville, Iowa, as that community's first FM assignment in response to a petition filed by Dyersville Broadcasting Service, Inc. ("petitioner"). Comments in support of the proposal were filed by the petitioner. No oppositions to the proposal were received.

2. Dyersville (population 3,825) [1] is located along the border between the counties of Delaware (population 18,933) and Dubuque (population 93,745), approximately 72 kilometers (45 miles) northeast of Cedar Rapids, Iowa. It has no local aural service.

3. In its comments, the petitioner restated the need for an FM assignment to Dyersville and urged the Commission to adopt its proposal. As requested by the Notice, petitioner submitted information indicating that it could comply with the Commission's technical criteria with a transmitter site located approximately 6.6 miles southwest of Dyersville. It also restated its intention to apply for Channel 257A, if assigned.

4. The Commission has determined that the public interest would be served by assigning Channel 257A to Dyersville, Iowa, since it would provide the community with its first local FM broadcast service. The transmitter site is restricted to 6.6 miles southwest of Dyersville to meet spacing requirements.

5. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective July 20, 1982, § 73.202(b) of the Commission's Rules, is amended with respect to the following community.

City	Channel No.
Dyersville, Iowa	257A

6. It is further ordered, That this proceeding is terminated.

[1] Population figures were derived from the 1980 U.S. Census, Advance Report.

7. For further information, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc 82-14337 Filed 5-25-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 81-874; RM-3931]

Radio Broadcast Services; FM Broadcast Station in Devils Lake, N. Dak., Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns two Class C channels to Devils Lake, North Dakota. One of the Class C channels is substituted for a Class A channel, with the license modified accordingly, in response to a petition filed by KPGC Company.

EFFECTIVE: July 20, 1982.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order—Proceeding Terminated

Adopted: May 12, 1982.

Released: May 19, 1982.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Devils Lake, North Dakota); BC Docket No. 81-874, RM-3931.

1. In response to a petition filed by KGPC Company ("petitioner"), the Commission adopted a Notice of Proposed Rule Making and Order to Show Cause, 46 FR 62878, published December 29, 1981, proposing the assignment of two Class C channels and deletion of a Class A channel at Devils Lake, North Dakota. Additionally, we proposed to modify the Class A license for Station KDVL(FM) to specify operation on one of the Class C channels. Comments supporting the proposal were filed by the petitioner. Comments in support were also filed by KDLR, Inc. (licensee of Station KDVL(FM)).

2. Devils Lake (population 7,442),[1] seat of Ramsey County (population 13,048), is located in the northeastern part of North Dakota, approximately 570 kilometers (350 miles) northeast of Minneapolis, Minnesota. It is served by fulltime AM Station KDLR and FM Station KDVL (Channel 244A). The stations have common ownership.

3. Petitioner in its comments again noted that Devils Lake is of sufficient size and importance to warrant a second FM assignment. It also stated that the proposed assignment would provide service to a significant area, currently without FM service. Petitioner reaffirmed its intention to apply for the channel, if assigned.

4. KDLR, Inc., in comments to the proposal, states that it is willing to modify its license to operate on a Class C channel. However, it is unable to determine what the Commission considers reasonable expenses for the frequency change. It estimates the expenses it will incur for upgrading its facility (which includes relocating the tower and transmitter site) will amount to approximately $100,000 to $200,000.

5. As stated in the Notice, the assignment of Channel 278 to Devils Lake would cause preclusion in a large area. However, petitioner has shown that alternate channels are available in the affected area. We also stated that exceptions to the Commission's policy of assigning Class C channels to smaller communities have been made where the assignment would result in a large first or second FM service or where, as here, the assignment would enable a large rural area to be served. Additionally, since there are few large cities in the coverage area, the assignment would provide residents with a choice of FM service.

6. It has also been general Commission policy to avoid an intermixture result where Class C channels are available to interested parties. Since the proposed coverage area is rural in nature and largely underserved, we believe that Devils Lake would greatly benefit from two Class C channels. As for the reimbursement issue, our general policy is to order the benefiting party to reimburse where the Commission finds it equitable in the individual case. However, the proper figure is normally left to the good faith determination of the parties, subject to Commission approval in the event of a disagreement. The amount reimbursed would include only the cost of converting the operating frequency from a Class A to a Class C channel. The cost of increasing the power and antenna height to conform to the minimum requirements of a Class C operation or of relocation of the transmitter site would not be reimbursed.

7. After consideration of the proposal and comments, we believe that the public interest would be served by the proposal. Therefore, we shall assign Class C Channels 273 and 278 and delete Channel 244A at Devils Lake. We shall also (in paragraph 10) modify the license of Station KDVL to specify operation on Channel 273. Station KDVL is entitled to reimbursement for frequency change only, by the eventual permittee on Channel 278.

8. Canadian concurrence in the proposal has been obtained.

9. In view of the foregoing and pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's Rules, it is ordered, That effective July 20, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with respect to Devils Lake, North Dakota, as follows:

City	Channel No.
Devils Lake, N. Dak	273, 278

10. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by KDLR, Inc. for Station KDVL(FM), Devils Lake, North Dakota, is modified, effective July 20, 1982, to specify operation on Channel 273 instead of Channel 244A. Station KDVL(FM) may continue to operate on Channel 244A for one year from the effective date of this action or until it is ready to operate on Channel 273, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

11. It is further ordered, That the Secretary of the Commission shall send

[1] Population figures are taken from the 1980 U.S. Census.

a copy of this Order by Certified Mail, Return Receipt Requested, to KDLR, Inc., 400 12th Avenue, Devils Lake, North Dakota 58301.

12. It is further ordered, That this proceeding is terminated.

13. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division Broadcast Bureau.

[FR Doc. 82-14339 Filed 5-25-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Parts 81 and 83

[PR Docket No. 81-657; FCC 82-203]

Stations on Land in the Maritime Services and Stations on Shipboard in the Maritime Services; Commission's Rules To Make a Certain Frequency Available Exclusively for Vessel Traffic Service (VTS) Communications in the Houston VTS Radio Protected Area

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document makes marine VHF Channel 11 available exclusively for Vessel Traffic Service (VTS) communications in the Houston VTS radio protected area. This rule making was initiated in response to an informal request by the Commandant, United States Coast Guard (USCG). These rules will enable the USCG to service the increased vessel traffic in this area.

EFFECTIVE DATE: June 14, 1982.

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

FOR FURTHER INFORMATION CONTACT: Linda R. Figueroa, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Parts 81 and 83

Coast stations, Marine safety, Radio telephone, Vessels.

In the matter of amendment of Parts 81 and 83 of the rules to make the frequency 156.55 MHz available exclusively for Vessel Traffic Service (VTS) communications in the Houston VTS radio protected, area, PR Docket No. 81-657.

Report and Order—Proceeding Terminated

Adopted: April 29, 1982.

Released: May 7, 1982.

Summary

1. This action will amend Parts 81 and 83 of the Commission's rules to make marine VHF Channel 11 (156.55 MHz) available exclusively for Vessel Traffic Service (VTS) communications in the Houston VTS radio protected area.

Background

2. The United States Coast Guard (USCG) has established a VTS system for a number of the largest and busiest port areas in the United States. This program was initiated in order to implement the provisions of the "Ports and Waterways Safety Act of 1972".[1] A VTS is a vessel movement reporting system which is designed to prevent damage to or loss of vessels, bridges or other structures in United States navigable waters, and to protect these waters and associated natural resources from environmental harm resulting from such damage or loss. At the request of the Commandant, USCG the Commission amended the rules so as to designate up to three frequencies exclusively for VTS communications within the designated VTS radio protected areas.[2] The frequencies available for VTS communications, under specified conditions, are recorded in §§ 81.357 and 83.361 of the rules. These frequencies are 156.550 MHz (previously a commercial frequency), 156.600 MHz and 156.700 MHz (previously port operations frequencies). Sections 81.357(b)(3) and 83.361(b)(3) presently designate frequency 156.600 MHz exclusively for USCG VTS communications in the Houston VTS radio protected area.

3. On October 2, 1981, we released a Notice of Proposed Rule Making (46 FR 50573, October 14, 1981) to amend our rules to also designate VHF Channel 11 exclusively for VTS communications in the Houston VTS radio protected area.[3] This notice was issued in response to an informal request by the Commandant of the United States Coast Guard (USCG). The additional VTS channel was considered necessary to enable the USCG to better serve the increased vessel traffic in this area.

Comments

4. Comments were filed by Houston Mooring Company, Inc. and Donald C. Chayet. Both commenters opposed the proposed rule changes.

5. The Houston Mooring Company, Inc. opposes the proposal because it feels Channel 11 is heavily used and therefore, excluding it from commercial use would cause considerable inconvenience and expense. Currently, Channel 11 is a commercial channel on which there are eleven limited coast station licensees and associated ship stations. The USCG coordinated locally with user groups in Houston and determined that there is strong local support for making Channel 11 available exclusively for VTS communications in this area. As we proposed, the licensees presently operating on Channel 11 will have until their licenses expire to make any adjustments necessitated by this action. It should also be noted that in Docket No. 21370[4] we made Channel 5 available for use in the Houston area. This action was taken to compensate, in part, for increased congestion in commercial channels resultng from VTS operation on these channels. Further, the financial burden imposed on the eleven limited coast station licensees by making Channel 11 available for VTS communications will at most entail the purchase of a new crystal. In the event that the licensees' equipment is synthesized (as most ship stations are) no expense will be incurred. Therefore, we conclude that the designation of Channel 11 as a VTS frequency in the Houston VTS radio protected area will not cause current licensees undue inconvenience and expense.

6. Mr. Chayet opposes the proposal alleging that the Commission lacks authority to designate a non-VTS frequency exclusively for VTS use. However, the Commission's authority was clearly established in Docket No. 20444.[5] In this docket the Commission amended the rules to designate up to three frequencies (156.550 MHz, 156.600 MHz and 156.700 MHz) exclusively for VTS communications within specific VTS radio protected areas. These amendments were made pursuant to authority contained in sections 4(i) and 303(b), (c), (d), (h) and (r) of the Communications Act of 1934 as amended. Consequently the Commission has clearly established the authority to designate non-VTS frequencies for VTS use.

7. We conclude that the amendments proposed in the NPRM to designate VHF Channel 11 exclusively for VTS communications in the Houston VTS radio protected area would be in the

---

[1] Pub. L. 92-340, 86 Stat. 424, 46 U.S.C. 1551.

[2] *Report and Order*, Docket No. 20444, adopted December 2, 1975, 40 FR 57673, 56 FCC 2d 1089.

[3] The Houston VTS radio protected area is defined in §§ 81.357(b)(3) and 83.361(b)(3) as the rectangle between north latitude 28° 30′ and 30° 20′ and west longitudes 93° 30′ and 96°.

[4] *Report and Order*, Docket No. 21370, adopted December 7, 1977, 67 FCC 2d 903.

[5] *Report and Order*, Docket No. 20444, *supra*, note 2.

public interest. Although the two comments filed opposed the proposed amendments, the issues they raised have no decisional significance. This amendment will promote safety and enable the USCG to meet the increased communications needs of the water transportion industry in the Houston port area. Therefore we are amending Sections 81.357 and 83.361 as proposed.

8. The Commission has determined that sections 603 and 604 of the Regulatory Flexibility Act of 1980 [6] do not apply to this rule making proceeding. The USCG VTS system is operated as part of a Congressional mandate in the "Ports and Waterways Safety Act of 1972". The effect on the licensees will be to require a frequency change at the time of license renewal. At most, this will entail a minimal cost for purchase of new crystals. Therefore, making Channel 11 available for VTS communications in the Houston VTS radio protected area will not have a significant economic impact on a substantial number of small entities.

9. Regarding questions on matters covered in this document contact Robert H. McNamara (202) 632-7175.

10. Accordingly, it is ordered, That under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934 as amended, 47 U.S.C. 154(i) and 303(r) the Commission's rules are amended as set forth in the attached Appendix, effective June 14, 1982.

11. It is further ordered, That this proceeding is terminated.

Federal Communications Commission.
(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

William J. Tricarico,

Secretary.

Appendix

Parts 81 and 83 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

Section 81.357(b)(3) is amended by adding frequency 156.55 MHz, to read as follows:

§ 81.357 Frequencies available for use in Vessel Traffic Services Systems.

* * * * *

(b) * * *

(3) Houston: The rectangle between north latitudes 28°30'and 30°20' and west longitudes 93°30' and 96°; frequencies 156.6 MHz and 156.55 MHz.

* * * * *

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICE

Section 81.361(b)(3) is amended by adding frequency 156.55 MHz, to read as follows:

§ 81.361 Frequencies available for use in Vessel Traffic Service Systems.

* * * * *

(b) * * *

(3) Houston: The rectangle between north latitudes 28°30'and 30°20' and west longitudes 93°30' and 96°; frequencies 156.6 MHz and 156.55 MHz.

* * * * *

[FR Doc. 82-14341 Filed 5-25-82; 8:45 am]

BILLING CODE 6712-01-M

[6] Pub. L. 96-354.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1474; Amdt. 1]

Various Railroads Authorized To Use Tracks and/or Facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 To Eleventh Revised Service Order No. 1474.

SUMMARY: Pursuant to Section 122 of the Rock Island Railroad Transition and Employee Assistance Act, Pub. L. 96-254, this order authorizes various railroads to provide interim service over the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor (Richard B. Ogilvie), Trustee, and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE DATE: 11:59 p.m., May 30, 1982, and continuing in effect until 11:59 p.m., July 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275-7840 or 275-1559.

In the matter of various railroads authorized to use tracks and/or facilities of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, Trustee); Amendment No. 1 to Eleventh Revised Service Order No. 1474.

Decided May 20, 1982.

List of Subjects in 49 CFR Part 1033

Railroads.

Upon further consideration of Eleventh Revised Service Order No. 1474 (47 FR 13529), and good cause appearing therefor:

It is ordered,

§ 1033.1474 Service Order No. 1474.

(a) Various railroads authorized to use tracks and/or facilities of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, debtor (Richard B. Ogilvie, Trustee), Eleventh Revised Service Order No. 1474 is amended by substituting the following paragraph (n) for paragraph (n) thereof:

* * * * *

(n) *Expiration date.* The provisions of this order are extended for an additional sixty (60) days, and shall expire at 11:59 p.m., July 30, 1982, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., May 30, 1982.

This action is taken under authority of 49 U.S.C. 10304-10305 and Section 122, Pub. L. 96-254.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien. Bernard Gaillard not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14242 Filed 5-25-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 102
Wednesday, May 26, 1982

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

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 742

Deregulation of Liquidity Reserve Requirements

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rulemaking.

SUMMARY: NCUA proposes to remove in its entirety Part 742 of NCUA's Rules and Regulations, Liquidity Reserves. This action is deemed appropriate because the NCUA Board believes that liquidity management should be the responsibility of individual credit union boards. In addition, it should be noted that credit union liquidity is generally high.

DATE: Comments due on or before June 25, 1982.

ADDRESS: Send comments to Robert S. Monheit, 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: The NCUA Board believes that Federal credit unions should have the flexibility to set their own standards to safeguard against poor economic conditions. For this reason the Board proposes to repeal the liquidity reserve requirement. (It should also be noted that should the rule be repealed, NCUA Interpretive Ruling 79–7 concerning this subject would also be repealed.) Prudent liquidity levels will differ depending upon a credit union's liability structure and the location and make-up of its field of membership. Hence, any particular percentage of liquid assets should be decided by the credit union board based upon these and other factors. Of course, statutory reserve transfer requirements remain in force.

By way of history, it should be noted that until 1978, liquidity and capital trends in credit unions were relatively stable. During 1978, Federal credit unions experienced severe liquidity pressures resulting from strong loan demand coupled with a slow-down and outflow in the rate of consumer savings. To curb the then rising demands for assistance and to avert future threats to the National Credit Union Share Insurance Fund (and to insured credit unions and their members), the NCUA adopted the Liquidity Reserve Regulation. At that time the liquidity ratio was 12.85% in federally chartered credit unions. By contrast, in mid-1981, the ration was dramatically higher at 29.02%. At present the regulation binds only 5% of those federally chartered credit unions subject to the rule.

Regulatory Flexibility Act.

The NCUA Board hereby certifies that the proposed action, if adopted, will not have a significant economic impact on a substantial number of small credit unions because the restrictions contained in the present rule do not apply to credit unions with less than $1 million in assets. Therefore, its deletion would have no effect on small credit unions.

List of Subjects in 12 CFR Part 742

Credit unions

(12 U.S.C. 1762(b), 1781(b)(6), 1766(a), 1789(a)(11))

Accordingly it is proposed that 12 CFR Chapter VII be amended by removing Part 742.

PART 742—LIQUIDITY RESERVES [REMOVED]

Dated: May 20, 1982.

Rosemary Brady,

Secretary of the National Credit Union Administration Board.

[FR Doc. 82-14299 Filed 5-25-82; 8:45 am]
BILLING CODE 7535-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

General Provisions: Proposed Change in Field Organization of the Customs Service

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to change the field organization of the Customs Service by consolidating the Customs districts of Bridgeport, Connecticut, and Providence, Rhode Island, under the Boston, Massachusetts, district and by consolidating the Bridgeport and Providence ports of entry in the enlarged Boston district. The proposed consolidation of the Customs districts would significantly reduce administrative salaries and expenses without impairing services to area businesses or the general public. The proposed change is part of Customs continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATE: Comments must be received on or before July 26, 1982.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Renee DeAtley, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs proposed to consolidate the Providence, Rhode Island, and Bridgeport, Connecticut, Customs districts under the Boston, Massachusetts, district.

The Regional Commissioner of Customs, Boston, Massachusetts (Region I), has recently completed a survey of staffing and workload for the Providence and Bridgeport districts. Based on the findings of this survey, Customs is of the opinion that the workload and manpower requirements of the Providence and Bridgeport districts do not warrant separate district organizations. For example, in Fiscal Year 1980, the Providence district processed approximately 6.0% of the Boston district formal entry workload.

During the same period, the Bridgeport district processed approximately 15.8% of the Boston workload. The volume of activity for both districts represents less than 25% of the total formal entries processed by the Boston district.

Customs believes that consolidation of the Bridgeport and Providence districts under the Boston district will result in more economical and efficient use of its personnel and resources in carrying out the Customs mission. The estimated savings to Customs in salaries and expenses is approximately $400,000. There would be no reduction in Customs service to the general public or to those organizations conducting business in the Providence or Bridgeport districts. In addition, Customs would be better able to meet the present needs and growth potential of the geographical area.

It should be noted that customhouse brokers currently licensed to transact business in Bridgeport and Providence also would be considered licensed in Boston if the consolidation is effected. Likewise, those customhouse brokers currently licensed to transact business in Boston also could do business in Providence or Bridgeport.

The proposed consolidation would place the Bridgeport and Providence ports of entry under the Boston districts. Also, the ports of entry currently under the jurisdiction of the Bridgeport and Providence districts will be placed under the Boston district. Those ports are as follows:

Providence and Newport, Rhode Island; Bridgeport, Hartford, New Haven, and New London, Connecticut.

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in § 101.3.(b), Customs Regulations (19 CFR 101.3(b)), would be amended accordingly.

Comments

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulation (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Services, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10829, September 17, 1951 (3 CFR 1949–1953 Comp. Ch. II), and pursuant to authority provided by Treasury Department No. 101–5 (47 FR 2419).

Executive Order 12291

Because this rule relates to the organization of the Customs Service it is not a regulation or rule subject to Executive Order 12291 pursuant to section 1(a)(3) of such Executive order.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this proposal because the rule if promulgated, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to; have significant secondary or incidental effects on a substantial number of small entities; impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities; or generate significant interest or attention from entities through comments, either formal or informal.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Acts (5 U.S.C. 605(b)) that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was Robert Joseph Pisani, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 101

Organization and functions (government agencies).

Approved: March 26, 1982.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

William von Raab,

Commissioner of Customs.

[FR Doc. 82-14369 Filed 5-25-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Regulations No. 4

Federal Old-Age, Survivors, and Disability Insurance Benefits Annual Earnings Test

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: These proposed regulations reflect recent statutory amendments which delay for one year (from January 1982 until January 1983), for all except a very small number of individuals who file their tax returns on a fiscal year basis, full implementation of section 302, Pub. L. 95–216, the Social Security Amendments of 1977. Section 302 reduced from 72 to 70 the age at which social security beneficiaries are no longer subject to an earnings test.

DATES: Comments must be received on or before July 26, 1982.

ADDRESSES: Prior to final adoption of the proposed regulations, consideration will be given to any comments received. Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Mr. Marval Cazer, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7463.

SUPPLEMENTARY INFORMATION: The proposed regulations conform existing regulations to section 2204 of Pub. L. 97–35, enacted August 13, 1981. This legislation exempts recipients of retirement and survivors benefits from an earnings test (including the 7-day foreign work test) for the months after December 1982 in which a beneficiary is age 70 or over. The January 1983 effective date is not tied to the beginning or ending date of any taxable year.

The Social Security Amendments of 1977 had made full benefits payable, with no deduction for earnings, for

months in which a beneficiary was age 70 or over in a taxable year ending after December 31, 1981. This provision became effective in calendar year 1981 for a few beneficiaries (prior to the enactment of the 1981 Amendments) whose taxable year is not on a calendar year basis. In order to avoid adversely affecting those few beneficiaries, the delay under the 1981 Amendments in implementing the age 70 provision does not apply to them nor to those beneficiaries who attain age 70 after enactment in the taxable year beginning in 1981 and ending in 1982 if the fiscal taxable year was approved by the Internal Revenue Service prior to the 1981 legislation. For example, a beneficiary with a taxable year of November 1, 1981, through October 31, 1982, who attains age 70 on July 3, 1982, would not be subject to the earnings test for months after June 1982. However, if a beneficiary had an approved taxable year June 1, 1981 through May 31, 1982, but attained age 70 after May 31, 1982, he or she would be subject to the earnings test for all months prior to January 1983 because the beneficiary is not age 70 in the taxable year that begins in 1981 and ends in 1982.

Regulatory Procedures

Executive Order 12291—These regulations merely conform the existing rules to the changes legislated by Pub. L. 97–35. The law delayed for one year putting into effect the age 70 provision after which a beneficiary is no longer subject to the earnings test. The resulting impact is solely the result of legislation and is in place and effective regardless of regulatory action on our part. Therefore, these regulations do not "result in" a cost impact of $100 million or more or otherwise trigger the criteria for a major rule established in EO 12291.

Regulatory Flexibility Act—We certifiy that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these rules only affect individual beneficiaries. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act—These proposed regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

(Secs. 203 and 1102 of the Social Security Act, as amended, 49 Stat. 623 and 647 as amended, 42 U.S.C. 403 and 1302; and sec. 2204 of Pub. L. 97–35, 95 Stat. 357)

(Catalog of Federal Domestic Assistance Program Nos. 13.803—Social Security Retirement Insurance; 13.805—Social Security Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

Dated: April 6, 1982.

John A. Svahn,

Commissioner of Social Security.

Approved: May 6, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE

Part 404, Subpart E, of Title 20, Code of Federal Regulations is proposed to be amended as set forth below:

1. Section 404.415 is amended by revising paragraph (a) to read as follows:

§ 404.415 Deductions because of excess earnings; annual earnings test.

(a) *Deductions because of beneficiary's earnings.* Under the annual earnings test, deductions are made from monthly benefits (except disability insurance benefits, child's insurance benefits based on the child's disability, or widow's or widower's insurance benefits based on the widow's or widower's disability) payable to a beneficiary for each month in a taxable year (whether a calendar year or a fiscal year) beginning after December 1954 in which the beneficiary is under age 72 (age 70 after December 1982) and to which excess earnings are charged under the provisions described in § 404.434.

* * * * *

2. Section 404.417 is amended by revising all of paragraph (a) except the last sentence to read as follows:

§ 404.417 Deductions because of noncovered remunerative activity outside the United States; 7-day work test.

(a) *Deductions because of individual's activity.* Under the 7-day work test, a deduction is made from any monthly benefit (except disability insurance benefits, child's insurance benefits based on the child's disability, or widow's or widower's insurance benefits based on the widow's or widower's disability) payable to an individual for each month in a taxable year beginning after December 1954 in which the beneficiary, while under age 72 (age 70 after December 1982), engages in noncovered remunerative activity (see § 404.418) outside the United States on seven or more different calandar days.* * *

* * * * *

3. Section 404.428 is amended by revising the parenthetical sentence at the end of paragraph (a)(1) to read as follows:

§ 404.428 Earnings in a taxable year.

(a) *General.* (1) * * *

(See, however, § 404.430 for the rule which applies to earnings of a beneficiary who attains age 72 during the taxable year (age 70 for months after December 1982))

* * * * *

4. Section 404.430 is amended by revising the parenthetical sentence at the end of paragraph (a)(3) to read as follows:

§ 404.430 Excess earnings defined for taxable years ending after December 1972; monthly exempt amount defined.

(a) *Method of determining excess earnings for years ending after December 1972.** * *

(All references to age 72 will be age 70 for months after December 1982.)

* * * * *

5. Section 404.435 is amended by revising in paragraph (a)(3) the parenthetical phrase to read as follows:

§ 404.435 Excess earnings; months to which excess earnings cannot be charged.

(a) *Monthly benefits payable for months after 1977.** * *

(3) * * * (age 70 for months after December 1982); * * *

* * * * *

[FR Doc. 82–14236 Filed 5–25–82; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–161–81]

Industrial Development Bonds for Residential Rental Housing; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation under section 103(b) relating to industrial development bonds the proceeds of which are used for residential rental housing. Changes to section 103(b)(4)(A) of the Internal Revenue Code of 1954 by the Omnibus Budget Reconciliation Act of 1980 has mede it possible to exclude interest on such industrial development bonds from the bondholders gross income. Interest

on such obligations is not includable in gross income.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 26, 1982. In general, the regulations are proposed to be effective with respect to obligations issued after April 24, 1979.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–161–81). Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Harold T. Flanagan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention CC:LR:T, 202–566–3294).

SUPPLEMENTARY INFORMATION:

Explanation of Provisions

This document contains proposed regulations relating to obligations issued under section 103(b)(4)(A) of the Internal Revenue Code of 1954, as amended by section 1103 of the Omnibus Reconciliation Act of 1980 (Pub. L. 96–499, 94 Stat. 2669).

Generally, interest on industrial development bonds is includable in the recipient's gross income. Section 103(b)(4)(A) provides an exception for obligations which are part of an issue substantially all the proceeds of which are to be used for a residential rental project. Subject to certain additional requirements, interest on such obligations is not includable in gross income.

Proposed § 1.103–8(b)(4) would provide that a residential rental project is a building or structure or interrelated buildings or structures each containing more than one unit which are used on other than a transient basis and any facilities functionally related and subordinate to such units. Such units must be rented or available for rental on a continuous basis to members of the general public as generally required by § 1.103–8(a)(2). Further, proposed § 1.103–8(b)(5)(i) would require that, once available for occupancy, units in a project financed under this provision must be rented or available for rental on a continuous basis for a period equal to the greater of 20 years or the term of the obligation.

In addition, a specified percentage of the units in such project must be rented to individuals or families of low or moderate income. Under proposed § 1.103–8(b)–(1), 20 percent or more of the units would be required to be occupied by individuals or families of low or moderate income. However, a special rule would provide that for targeted area projects only 15 percent of such units are to be occupied by individuals or families of low or moderate income. Proposed § 1.103–8(b)(6)(iii) would provide that a "targeted area project" is a project located in a qualified census tract or an area of chronic economic distress, as defined in § 6a.103A–2(b) (4) and (5).

Proposed § 1.103–8(b)(5)(ii) would provide that the 20 percent rule (or 15 percent rule for targeted area projects) must be met for the term of the obligation (including any refundings) but, in no instance, for less than 20 years. Under proposed § 1.103–8(b)(5)(ii) a transitional rule would require that for obligations issued before January 1, 1984, such rule need only be met for 20 years, without regard to the term of the obligation.

The determination of whether an individual or family is of low or moderate income would be made only at the time the tenancy commences. Thus, even if an occupant subsequently ceases to qualify, the unit would continue to be considered as occupied by an individual of low or moderate income during the tenancy. Further, the unit generally would continue to be treated as so occupied until a new occupant occupies the unit, at which time the character of the unit would be redetermined on the basis of whether the new occupant of the unit is of low or moderate income. It should be noted, however, that the status of a unit would be redetermined at the time that a new occupant commences residency, even though such occupant possesses no legal interest or right of occupancy in the unit.

Under proposed § 1.103(b)(5)(iv) the involuntary loss or substantial destruction of a project would obviate the need to continue to comply with the occupancy and rental requirements if the obligation is retired within a reasonable period. This rule does not distinguish between losses which are compensated by insurance and those which are not.

Pursuant to § 1.103–8(b)(5)(iii) non-compliance with the requirements of section 103(b)(4)(A) and § 1.103–8(b) generally would result in the project not being treated as a project described in section 103(b)(4)(A). As such, if more than an insubstantial portion of the proceeds of an issue were used for such project, the interest on such obligations would not be excludable from gross income as of the date of issue. However, if the non-compliance results from events occurring after the issuance of the obligation and such non-compliance is corrected within a reasonable period then the tax-exempt status of the obligation would not be affected.

Further, under proposed § 1.103–8(b)(2) obligations issued after December 31, 1981, must be issued "in registered form." This requirement also would apply to obligations issued to refund obligations issued to provide residential projects under section 103(b)(4)(A), without regard to the date of the prior issue. The term "in registered form" would have the same meaning as in § 1.6049–2(d).

This notice also contains a proposed amendment to § 1.103–10 which would deny the "small issue" exception provided by section 103(b)(6) to obligations issued for residential property for family units. In general, this rule would apply to any obligation if a significant portion of the proceeds thereof are used to provide financing for owner-occupied residences or residential rental property.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request made to the Commission by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act

Although this notice of proposed rulemaking solicits public comment, the Internal Revenue Service has concluded that the regulations proposed are interpretative and thus not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Non-Application of Executive Order 12291

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

Drafting Information

The principal author of this proposed regulation is Harold T. Flanagan of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal

Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.61-1—1.281-4

Income taxes, Taxable income, Deductions, Exemptions, Industrial development bonds.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Proposed amendment to the regulations

The proposed amendment to 26 CFR Part 1 is as follows:

1. Section 1.103-8 is amended by revising the second sentence of paragraph (a) (4), by revising paragraph (b), by removing Examples (1) and (2) of paragraph (i) and redesignating Examples (3), (4), (5), (6), (7), and (8) thereof as Examples (1), (2), (3), (4), (5), and (6) respectively, and by amending redesignated Example (6) of paragraph (i). The revised and amended provisions read as follows:

§ 1.103-8 Interest on bonds to finance certain exempt facilities.

(a) *In General.*

* * * * *

(4) *Ultimate use of the proceeds.* * * * For example, such proceeds will be treated as used to provide residential rental property whether the State or local governmental unit (i) constructs such property and leases or sells it to any person who is not an exempt person for use in such person's trade or business of leasing such property; (ii) lends the proceeds to any such person for such purpose; or (iii) lends the proceeds to banks or other financial institutions in order to increase the supply of funds for mortgage lending under conditions requiring such banks or other financial institutions to use such proceeds only for further lending for residential rental property.

* * * * *

(b) *Residential rental property*— (1) *General rule for obligations issued after 24, 1979.* Section 103 (b) (1) shall not apply to any obligation which is issued after April 24, 1979, and is part of an issue substantially all of the proceeds of which are to be used to provide a residential rental project in which 20 percent or more of the units are to be occupied by individuals or families of low or moderate income (as defined in paragraph (b) (6) (v) of this section). In the case of a targeted area project, the minimum percentage of units which are to be occupied by individuals of low or moderate income is 15 percent. See generally § 1.103-7 (d) for rules relating to refunding issues.

(2) *Registration requirement.* Any obligation (including any refunding obligation) issued after December 31, to provide a residential rental project must be in registered form (as defined in paragraph (b) (6) (ii) of this section).

(3) *Transitional rule.* For purposes of this section, obligations issued after April 24, 1979, may be treated as issued before April 25, 1979, if the transitional requirements of section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 (94 Stat. 2670) are satisfied.

(4) *Residential rental project.* (i) A residential rental project is a building or structure or several proximate and interrelated buildings or structures—

(*a*) Each containing more than one unit (as defined in paragraph (b)(6)(i) of this section) which are to be used on other than a transient basis and any facilities which are functionally related and subordinate to such units, and

(*b*) All of the units of which are rented or available for rental on a continuous basis to members of the general public in accordance with the requirement of paragraph (a) (2).

Substantially all of the project must consist of similar units together with any functionally related and subordinate facilities. Under paragraph (a)(3) of this section, facilities that are functionally related and subordinate to residential rental projects include facilities for use by the tenants, for example, swimming pools, parking areas, and recreational facilities. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, sanitariums, rest homes, and trailer parks and courts for use on a transient basis are not residential rental projects.

(ii) For purposes of this paragraph (b), interrelated buildings or structures are part of the same project only if owned for federal tax purposes by the same person.

(iii) In no event shall proceeds provided to a cooperative housing corporation (as defined in section 216 (b)(1)) be considered to provide a residential rental project.

(5) *Requirements must be continuously satisfied*—(i) *Rental requirement.* Once available for occupancy, each unit (as defined in paragraph (b)(6)(i) of this section) in a residential rental project must be rented or available for rental on a continuous basis during the period described in subdivision (ii)(*a*) of this paragraph (b)(5). Such requirement is not satisfied with respect to any unit occupied by the owner of such project or an individual related to the owner. An individual is related to the owner of such project if the owner is:

(*a*) A member of the individual's family, as defined in section 267(c)(4);

(*b*) A corporation more than 1 percent in value of the outstanding stock of which is owned, directly or indirectly, by or for such individual;

(*c*) A partnership more than 1 percent in value of the capital interest or the profits interest of which is owned, directly or indirectly, by or for such individual; or

(*d*) A trust more than 1 percent in value of the corpus or the income of which is owned, directly or indirectly, by or for such individual.

For purposes of subdivision (*i*), the principles under section 267(c) apply to determine the constructive ownership of stock in a corporation, an interest in a partnership or the corpus or income of a trust.

(ii) *Low or moderate income occupancy requirement.* (*a*) Except as provided in paragraph (b)(5)(ii)(*b*) of this section, the occupancy requirement for individuals of low or moderate income (and the rental requirement of this paragraph (b)(5)) must be satisfied on a continuous basis, commencing on the later of the date that the project is available for occupancy, or the date of issuance of the obligations, and terminating on the later of twenty years after the commencement date, or the retirement of the obligations (including any refundings).

(*b*) With respect to obligations issued before January 1, 1984, which do not meet the requirements of paragraph (b)(3) of this section, including obligations which refund such obligations, the period for continuing compliance with the requirements of this subdivision (ii) shall be 20 years commencing from the date determined in the same manner as set forth in paragraph (b)(5)(ii)(*a*) of this section.

(*c*) A unit occupied by an individual or family who at the commencement of the occupancy are of low or moderate income shall be treated as occupied by such an individual or family during such individual's or family's tenancy in such unit, even though the individual or family subsequently ceases to have a low or moderate income. Moreover, a unit shall be treated as occupied by an individual or family of low or moderate income until occupied, other than for a temporary period, by another occupant, at which time the character of the unit shall be redetermined. In no event shall a temporary period exceed 31 days.

(iii) *Effect of non-compliance.* Non-compliance with the requirements of this paragraph shall cause the project to be

treated as other than a project described in section 103(b)(4)(A) and this paragraph (b) as of the date of issue. After an issue to provide such a project ceases to qualify, subsequent conformity with the requirements will not alter the taxable status of such obligations. However, if an issuer corrects any non-compliance arising from events occurring after the issuance of the obligation, (*e.g.*, an unauthorized sub-lease) within a reasonable period, the tax-exempt status of the issuance will not be altered. A reasonable period shall not be less than 60 days after such error is first discovered or should have been discovered.

(iv) *Involuntary and unforeseen loss.* Subdivision (iii) of this paragraph (b)(5) shall not apply in the event of non-compliance caused by an involuntary loss or the substantial destruction of a project as a result of unforeseen events (*e.g.*, fire, seizure, requisition, foreclosure or condemnation), even though compensated by insurance, provided the obligations used to provide such project are retired within a reasonable period. If the obligations are not retired, subdivision (iii) shall not apply provided any amounts received as a consequence of such loss or destruction also are used to provide a project which meets the requirements of section 103(b)(4)(A) and this paragraph (b).

(6) *Definitions.* For purposes of this paragraph—

(i) *Unit.* The term "unit" means any separate accommodation containing complete facilities for living, sleeping, eating, cooking, and sanitation. Such accommodations may be served by centrally located equipment such as air conditioning or heating. Thus, for example, an apartment containing a living area, a sleeping area, bathing and sanitation facilities, and cooking facilities equipped with a cooking range, refrigerator, and sink, all of which are separate and distinct from other apartments, would constitute a unit.

(ii) *In registered form.* The term "in registered form" has the same meaning as in § 1.6049–2(d). Thus, in general, an obligation is issued in registered form if it is registered as to both principal and interest and if its transfer must be effected by the surrender of the old instrument to the issuer and by either the reissuance of the old instrument to a new holder or the issuance of a new instrument to a new holder.

(iii) *Targeted area project.* The term "targeted area project" means a project located in a qualified census tract (as defined in § 6a.103A–2(b)(4)) or an area of chronic economic distress (as defined in § 6a.103A–2(b)(5)).

(iv) *Building and structure.* The terms "building" and "structure" generally mean an edifice or other manmade construction consisting of interrelated parts (*e.g.*, foundations, walls, or roofs) and constituting property which is or would, if such property were placed in service after 1980, be entitled to a separate election under section 168(b)(3)(B)(ii). Thus, if two units located on a single tract or parcel (or contiguous tracts or parcels) of land are not contained within one edifice consisting of interrelated parts, then they are separate buildings or structures for purposes of this paragraph.

(v) *Low or moderate income.* The term "low or moderate income" has the same meaning as in § 1.167(k)–3(b). The method of determing low or moderate income in effect at the time that the obligation is issued will be determinative for such issue, even if such method is subsequently changed.

(7) *Examples.* The following examples illustrate the application of this paragraph (b).

Example (1). In 1982, City A issues $10 million of registered bonds with a term of 20 years to be used to finance the construction of an apartment building to be available to members of the general public. A leases the project to Corporation X for 20 years. The lease requires annual payments sufficient to amortize the principal and interest of the bonds. Corporation X has an option to purchase the facility at the end of the 20 year period. X is the owner of the project for federal income tax purposes. The lease payments and the property secure payment of principal and interest on the bonds. Corporation X maintains 20 percent of the units in the project for low or moderate income individuals and meets all of the requirements of this section until 2002, at which time X purchases the project from A and converts the project to offices. The bonds are industrial development bonds, but because the proceeds are used for construction of residential rental property, which is an exempt facility under section 103(b)(4)(A) and paragraph (b) of this section, section 103(b)(1) does not apply.

Example (2). The facts are the same as in example (1), except that the facility is constructed adjacent to a factory, and factory employees are to be given preference to its employees in selecting tenants. The bonds are industrial development bonds and the facility is not an exempt facility under section 103(b)(4)(A) and paragraph (b) of this section because it is not a facility constructed for use by the general public.

Example (3). The facts are the same as in example (1), except that the proceeds of the obligation are provided to Y, a cooperative housing corporation, to finance the construction of a cooperative housing project. Y sells stock in such cooperative to individual tenant-shareholders who either occupy such units or rent such units. Such project is not a residential rental project within the meaning of section 103(b)(4)(A) and § 1.103–8(b)(4). Further, the bonds are mortgage subsidy bonds under section 103A because the proceeds are indirectly used to provide financing for residences, some of which are owner-occupied and some of which are used in the trade or business of rental.

Example (4). On February 1, 1984, County Z issues registered obligations with a term of 40 years to provide funds to construct a garden apartment project. The project is not a targeted area project. As a condition for providing such financing Z requires that a covenant be contained in the deed for the project which restricts occupancy of 20 percent of the units to individuals or families of low or moderate income. Further, the deed states, "Such covenant shall run with and bind the land, for a term of forty (40) years from the date that the project is first available for occupancy. The right to enforce the aforementioned restriction for the benefit of the low or moderate income citizens of County Z is vested in County Z." In 1990, however, less than 20 percent of the units are occupied by families or indivduals of low or moderate income and County Z fails to enforce the covenant within a reasonable time. Since 20 percent of such units are not maintained for individuals and families of low or moderate income for 40 years, such project will not be residential rental property within the meaning of section 103(b)(4)(A) and section (b)(1) from February 1, 1984.

Example (5). On January 15, 1983, State X issues registered obligations the proceeds of which are loaned to Corporation Z in order that Corporation Z can construct an apartment building. The project will be a "targeted area project" within the meaning of § 1.103–8(b)(6)(iii). Corporation Z intends to maintain 15 percent of the units in the project for individuals having low or moderate income for 20 years. Further Corporation Z converts 80 percent of the units to condominiums in 1988. Corporation Z repays the loan to State X which, in turn, redeems the obligations. The obligations are not used to provide a residential rental project within the meaning of section 103(b)(4)(A) but are indirectly used to construct condominiums which are owner-occupied residences described in section 193A.

Example (6). In 1982, State Y issues 40 year bonds the proceeds of which will be used to acquire and restore an apartment building located in a targeted area. Y leases the project to Corporation Z for 40 years. Z will rent as residences all the units in the restored apartment building. Corporation Z further contracts with Public Housing Agency W for W to subsidize the rents of low and moderate income tenants residing in the building for 20 years. Throughout 1987, Z, however, fails to maintain at least 15 percent of the units in such project for individuals and families of low or moderate income. Since 15 percent of the units are not rented to individuals of low or moderate income for 20 years, such project will not be residential rental property within the meaning of section 103(b)(4)(A) and § 1.103–8(b)(4).

Example (7). On January 15, 1984, State Z issues obligations with a term of 5 years the

proceeds of which will be used to provide a residential apartment building. Z sells the project to Corporation U and receives a 30 year mortgage. The mortgage requires that U maintain at least 20 percent of the units for occupancy by individuals of low or moderate income for the term of the mortgage. The mortgage may not be prepaid in whole or in part without the express permission of Z. On January 15, 1988, Z issues 35 year refunding bonds the proceeds of which are used to retire the obligations issued in 1984. In order to meet the requirements of § 1.103–8(b)(5)(ii), 20 percent of such units must be occupied by individuals of low or moderate income for 39 years.

Example (8). The facts are the same as in example (7) except that the mortgage permits the mortgagor to prepay the mortgage in the event of loss by fire or flood. In 1987, the apartment building is substantially destroyed by fire. The building was insured at its fair market value. U does not intend to reconstruct the building but uses a portion of the insurance proceeds to repay the unpaid balance of the mortgage, which Z uses to redeem the outstanding bonds at the first available call date. Since the project was substantially destroyed by an unforeseen event and the outstanding bonds are retired at the first available call date, the property does not need to continue to meet the requirements of section 103(b)(4)(A) of this paragraph (b).

Example (9). The facts are the same as in example (7) except that in 1987 U defaults on the mortgage and Z forecloses on the project. Z sells the project to Y and uses the proceeds to retire the outstanding bonds within a reasonable period. Y is not required to meet the requirements of section 103(b)(4)(A) and this paragraph since Y did not obtain the project with obligations described in section 103(b)(4)(A).

(8) *Obligations issued before April 25, 1979*—(i) *General rules.* Section 103(b)(1) shall not apply to obligations issued before April 25, 1979, which are part of an issue substantially all of the proceeds of which are to be used to provide residential real property for family units. In order to quality under this paragraph (b)(8) as an exempt facility, the facility must satisfy the public use requirement of paragraph (a)(2) of this section by being available for use by members of the general public.

(ii) *Family units defined.* For purposes of this paragraph (b)(6) the term "family unit" means a building or any portion thereof which contains complete living facilities which are to be used on other than a transient basis by one or more persons, and facilities functionally related and subordinate thereto. Thus, an apartment which is to be used on other than a transient basis as a residence by a single person or by a family which contains complete facilities for living, sleeping, eating, cooking, and sanitation, constitutes a family unit. Such a unit may be served by centrally located machinery and equipment as in a typical apartment building. To qualify as a family unit, the living facilities must be a separate, self-contained building or constitute one unit in a building substantially all of which consists of similar units, together with functionally related and subordinate facilities and areas. Hotels, motels, dormitories, fraternity and sorority houses, rooming houses, hospitals, sanitariums, rest homes, and trailer parks and courts for use on a transient basis do not constitute residential real property for family units.

(iii) *Functionally related and subordinate facilities.* Under paragraph (a)(3) of this section, facilities which are functionally related and subordinate to residential real property actually used for family units include, for example, facilities for use by the occupants such as a swimming pool, a parking area, and recreational facilities.

* * * * *

Examples. * * *

Example (6). City G issues $20 million of its bonds and will use $6 million to finance residential rental property which qualifies as an exempt facility under section 103(b)(4)(A) and paragraph (b) of this section, $9 million to finance construction of a stadium which qualifies as an exempt facility under section 103(b)(4)(B) and paragraph (c) of this section, and $5 million for convention facilities which qualify as exempt facilities under section 103(b)(4)(C) and paragraph (d) of this section. The facilities will be used in the trades or businesses of nonexempt persons and rental payments with respect to such facilities and the facilities themselves will be the security for the bonds. The bonds are industrial development bonds, but since all the proceeds are to be used for facilities which are exempt facilities under section 103(b)(4), section 103(b)(1) does not apply unless the provisions of section 103(b)(10) and § 1.103–11 apply. The result would be the same, if, instead of using $9 million to finance construction of a stadium, the $9 million were used to finance construction of a capitol building. [Reg. § 1.103–8].

* * * * *

2. Section 1.103–10 is amended by redesignating paragraph (f) as paragraph (g) and by adding a new paragraph (f) immediately after paragraph (e). New paragraph (f) reads as follows:

§ 1.103–10 Exemption for certain small issues of industrial development bonds.

* * * * *

(f) *Disqualification of certain small issues.* (1) Section 103(b)(6) shall not apply to any obligation issued after April 24, 1979, which is part of an issue a significant portion of the proceeds of which are to be used directly or indirectly to provide residential real property for family units. Thus, for example, an issue of obligations issued to provide financing for owner-occupied residences or residential rental property is not an exempt small issue for purposes of this section.

(2) For purposes of subparagraph (1), a significant portion of the proceeds of an issue are used to provide residential real property for family units if 5 percent or more of the proceeds are so used.

* * * * *

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 82–14335 Filed 5–24–82; 8:45 am]

BILLING CODE 4830–01–M

---

26 CFR Part 301

Penalties for Underpayment of Deposits and Overstated Deposit Claims

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the penalty for underpayment of deposits and the penalty for overstated deposit claims. The penalty for overstated deposit claims was added by the Economic Recovery Tax Act of 1981. The regulations would provide guidance to officers and employees of the Internal Revenue Service with respect to the application of these civil penalties. The regulations would also provide guidance to the public in obtaining relief from the penalty for overstated deposit claims if the overstatement was due to reasonble cause. The regulations would also remove outdated regulation provisions relating to the penalty for underpayment of deposits. The regulations would affect all taxpayers required to make deposits of any internal revenue tax with government depositaries.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 20, 1982. These regulations are proposed to be effective with respect to returns filed after August 13, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–311–81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Martha E. Kadue of the Legislative and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:IR:T, 202–566–3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Regulations on Procedure and Administrative (26 CFR Part 301) under section 6656 of the Internal Revenue Code of 1954, as amended by section 724 of the Economic Recovery Tax Act of 1981 (95 Stat. 344). These amendments are proposed to be issued under the authority contained in section 7805 (68A Stat. 917, 26 U.S.C. 7805) of the Internal Revenue Code of 1954.

Discussion

Section 6656(a) of the Code imposes a penalty of 5 percent of the amount of any underpayment of a mandatory deposit. This penalty is imposed if a taxpayer fails to make a required deposit or makes a deposit of an amount less than the amount required to be deposited. Current regulations relating to this penalty contain rules for deposits required to be made before January 1, 1970, based on the law in effect for those deposits. The proposed regulations would delete these outdated provisions.

Section 6656(b) was amended by section 724 of the Economic Recovery Tax Act of 1981. The amendment provides a new penalty for overstated deposit claims made in returns filed after August 13, 1981. Overstated deposit claims are amounts claimed in a return to have been deposited in a government depositary that have not actually been deposited. The penalty of 25 percent of the overstated deposit claim is imposed unless the taxpayer shows that the overstated claim was due to reasonable cause and was not due to willful neglect. The penalty applies in addition to any other penalties, such as the penalty provided by section 6656(a), relating to underpayments of deposits.

The proposed regulations define an overstated deposit claim as the excess of the amount of deposits claimed on a return over the amounts actually deposited in a government depositary on or before the date the return is filed. An overstated deposit claim includes a claim of deposits when no deposits have been made as well as a claim of an amount of deposits in excess of the amount actually deposited. The proposed regulations also set forth the procedure (which is the same procedure as is available with respect to the penalty imposed by section 6656(a)) by which a taxpayer can assert that the overstated deposit claim was due to reasonable cause and was not due willful neglect.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not subject to Executive Order 12291. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the proposed regulations are interpretative and that the notice and public comment procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is Martha E. Kadue of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 301 are as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. Section 301.6656–1 is revised to read as follows:

§ 301.6656–1 Penalty for under payment of deposits.

(a) *General rule.* If any person is required by the Code or regulations prescribed thereunder to deposit any tax in a government depositary that is authorized under section 6302(c) to receive the deposit, and fails to deposit the tax within the time prescribed therefor, a penalty shall be imposed on such person unless the failure is shown to be due to reasonable cause and not due to willful neglect. The penalty shall be 5 percent of the amount of the underpayment without regard to the period during which the underpayment continues. For purposes of this section, the term "underpayment" means the amount of tax required to be deposited less the amount, if any, that was deposited on or before the date prescribed therefor.

(b) *Assertion of reasonable cause.* To show that the underpayment was due to reasonable cause and not willful neglect, a taxpayer must make an affirmative showing of all facts alleged as a reasonable cause in a written statement containing a declaration that it is made under the penalties of perjury. The statement must be filed with the district director for the district or the director of the service center where the return with respect to the tax is required to be filed. If the district director or the director of the service center determines that the underpaymet was due to reasonable cause and was not due to willful neglect, the penalty will not be imposed.

Par. 2. A new § 301.6656–2 is added immediately after § 301.6656–1, to read as follows:

§ 301.6656–2 Penalty for overstated deposit claims.

(a) *General rule.* Any person who makes an overstated deposit claim on a return is subject to a penalty equal to 25 percent of such claim, unless it is shown that the overstated deposit claim is due to reasonable cause and not willful neglect. This penalty is in addition to any other penalty provided by law, such as the penalty provided by section 6656(a), relating to underpayment of deposits.

(b) *Overstated deposit claim.* An overstated deposit claim is the excess of—

(1) The amount of any internal revenue tax that a person claims, in a return filed after August 13, 1981, to have deposited for any period in a government depositary authorized under section 6302(c) to receive the deposit, over

(2) The aggregate amount for that period the person has deposited on or before the date the return for that period is filed, in a government depositary

authorized under section 6302(c) to receive the deposit.

An overstated deposit claim includes a claim that deposits have been made when no deposits have been made in an authorized government depositary. For purposes of this paragraph (b), the date a return is considered to be filed is the later of the date the return is due to be filed (not including extensions) or the date the return is actually filed. The application of this paragraph is illustrated by the following examples.

Example 1. On the date a return is due for the taxable period ended December 31, 1982, Z files the return claiming deposits of tax in the amount of $150 for that period. Z actually made deposits of $75 for that period on or before the date the return was due and filed. Z's tax liability for that period is $150. Z has made an overstated deposit claim in the amount of $75, the excess of the amount of tax claimed on the return to have been deposited ($150), over the amount actually deposited ($75) for that period on or before the date the return was due and filed.

Example 2. On the date a return is due for the quarter ended Decembr 31, 1982, X files the return claiming deposits of tax in the amount of $200 for that period. X actually made deposits of $100 for that period on or before the date the return was due and filed. X's tax liability for that period is $100. X has made an overstated deposit claim of $100, the excess of the amount of tax claimed on the return to have been deposited ($200), over the amount actually deposited ($100) for that period on or before the date the return was due and filed.

Example 3. The facts are the same as in example 2. For the quarter ending march 31, 1983, X files a return on the date it is due, claiming $100 (the excess of the amount of tax claimed to have been deposited on the prior quarter's return, $200, over X's liability for the prior quarter, $100) as a deposit for the quarter ending March 31, 1983. X did not actually deposit any amount for the quarter ended March 31, 1983, on or before the date the return was due and filed. X made an overstated deposit claim of $100 for the quarter ended December 31, 1982, as described in example 2. For the quarter ended March 31, 1983, X made an overstated deposit claim of $100, the excess of the amount of tax claimed to have been deposited ($100), over the amount actually deposited (0) for that period on or before the date the return was due and filed.

(c) *Assertion of reasonable cause.* To show that an overstated deposit claim was due to reasonable cause and not willful neglect, a taxpayer must make an affirmative showing of all facts alleged as a reasonable cause in a written statement containing a declaration that it is made under the penalties of perjury. The statement must be filed with the district director for the district or the director of the service center where the return with respect to the tax is required to be filed. If the district director or the director of the service center determines that the overstated deposit claim was due to reasonable cause and was not due to willful neglect, the penalty will not be imposed.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

FR Doc. 82-14345 Filed 5-25-82; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommiting, and Supervising Federal Prisoners

Correction

In FR Doc. 82-13286, appearing at page 21095, in the issue of Monday, May 17, 1982, make the following change:

On page 21095, in the third column, change the first line to read: "elimination would facilitate a more efficient";

On page 21095, in the third column, the first paragraph, the fifth line change "dicussion" to "discussion".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-103S]

Educational/Scientific Diving

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of the comment period; notice of informal public hearing.

SUMMARY: This notice extends the comment period for written responses to OSHA's notice of proposed rulemaking on educational/scientific diving (47 FR 13005, March 26, 1982). The written responses were to be postmarked by May 10, 1982.

In addition, OSHA is scheduling an informal public hearing concerning the notice of proposed rulemaking on educational/scientific diving.

DATES: Written comments must be received by June 18, 1982.

Notices of intention to appear at the informal public hearing, and testimony and all evidence which will be introduced into the hearing record must be received by June 18, 1982.

The hearing will begin at 9:30 a.m. and be held on the following dates: June 29–30, and July 7–9, 1982.

ADDRESSES: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket H-103S, Room S6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-7894.

Notices of intention to appear, and testimony and documentary evidence which will be introduced into the hearing record must be sent to Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3635, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The hearings will be held at the following locations:

1. June 29–30, 1982, at the Frances Perkins Department of Labor Building, Auditorium, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

2. July 7–9, 1982, at the Quality Inn Airport, Century III—Hearing Room, 5249 W. Century Boulevard, Los Angeles, California 90045, (213) 645-2200.

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3635, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-8024.

Proposal: Mr. Glen E. Gardner or Ms. Joanne E. Slattery, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3463, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523-7225.

SUPPLEMENTARY INFORMATION: On March 26, 1982, OSHA published in the **Federal Register** (47 FR 13005) a Notice of Proposed Rulemaking to exempt diving "performed solely for marine scientific research and development purposes by educational institutions" (educational/scientific diving) from its standard for Commercial Diving Operations (29 CFR Part 1910, Subpart T).

OSHA recognized that some of the information and data supporting the educational/scientific exemption also pertained to the scientific diving community in general. Therefore, OSHA solicited additional information and data for determining the appropriate scope of an exemption by asking the following questions:

1. Should OSHA adopt the second exemption provided by the U.S. Coast Guard standard (§ 197.202(a)(2)) which states that the standard does not apply to any diving operation "performed solely for research and development for

the advancement of diving equipment and technology?"

2. Should OSHA exempt all scientific diving? If so, how should OSHA define those activities which constitute scientific diving?

3. Should OSHA only exempt scientific diving when such diving complies with an alternative standard which provides divers a comparable level of safety and health as OSHA's Subpart T standard?

Interested persons were given until May 10, 1982, to submit written data, views, and arguments on the proposal, to file objections, and request a hearing.

OSHA received a request to extend the comment period from the American Academy of Underwater Sciences (AAUS). AAUS noted that disseminating the notice to its members and other interested persons had been more time consuming than anticipated. In order to assure that interested parties have sufficient time to compile data and prepare responses, OSHA has decided to extend the comment period to June 18, 1982.

Additionally, OSHA received a request for a hearing from the United Brotherhood of Carpenters and Joiners. The hearing request contained objections to the proposed exemption, and to the possible extension of the exemption to other segments of scientific diving.

The United Brotherhood of Carpenters and Joiners believes that an exemption is unnecessary. They state that granting any exemption would be denying protection to divers. Further they contend that "merely the demonstration of a good safety record does not negate the need for a standard to prevent future problems and act as a safeguard."

The Carpenters Union also suggests that in lieu of granting an exemption to any scientific diving activity, the employers of the scientific diving community should seek a variance from the commercial diving operations standard under section 6(d) of the Occupational Safety and Health Act. Section 6(d) states:

> Any affected employer may apply to the Secretary for a rule or order for a variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule of order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

Accordingly, pursuant to section 6(b)(3) of the Act, OSHA has scheduled an informal public hearing to receive testimony on whether OSHA should grant an exemption from the diving standard for educational/scientific diving, the nature of any exemption and whether the scope of the exemption should be broadened to include other segments of scientific diving.

In addition to the general issue concerning an exemption as stated above, OSHA invites testimony at the informal public hearing on the appropriateness of the section 6(d) variance mechanism.

Public Participation in Hearing

Notice of Intention to Appear: Persons desiring to participate at the hearing, must file a notice of intention to appear by June 18, 1982. The notice of intention to appear must contain the following:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The city where the person intends to appear;
4. The approximate amount of time required for the presentation;
5. The specific issues that will be addressed;
6. A detailed statement of the position that will be taken with respect to each issue addressed; and
7. Whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing: Any party requesting more than 15 minutes for presentation at the hearing or who will submit documentary evidence, must provide in quadruplicate, the complete text of its testimony, including all documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs by June 18, 1982.

Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the above requirements, may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

Notices of intention to appear, testimony and evidence, will be available for inspection and copying at the Docket Office, Docket H–103S, U.S. Department of Labor, Occupational Safety and Health Administration, Room S6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202)523–7894.

The hearing will commence at 9:30 a.m. at the scheduled locations with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;
2. To dispose of procedural requests, objections and comparable matters;
3. To confine the presentation to the matters pertinent to the issues raised;
4. To regulate the conduct of those present at the hearing by appropriate means;
5. In the Judge's discretion, to question and permit questioning of any witness; and
6. In the Judge's discretion, to keep the record open for a reasonable stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. The notice of proposed rulemaking will be reviewed in light of all testimony and written submissions received as part of the record, and the standard will be modified or a determination will be made not to modify the standard, based on the entire record of the proceeding.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

(Sec 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911, Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C., this 21st day of May 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–14287 Filed 5–25–82; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Surface Coal Mining Enforcement and Reclamation in Indiana; Review of State Program Submission

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

ACTION: Reopening of public comment period.

SUMMARY: The Office of Surface Mining (OSM) is reopening the period for review and comment on the resubmission by Indiana of its program for the regulation of surface coal mining and reclamation in the State. OSM is reopening the comment period to allow the public time to consider and comment on additional material in the administrative record.

DATE: Written comments, data, or other relevant information relating to the Indiana program must be received on or before 4:00 p.m., June 15, 1982 to be considered.

ADDRESS: Comments on the Indiana program submission should be mailed or hand delivered to: Office of Surface Mining, Attention: Indiana Administrative Record, Federal Building and U.S. Courthouse, Fifth floor, 46 East Ohio Street, Indianapolis, Indiana 46204.

See "Supplementary Information" for addresses where documents may be reviewed and copied.

FOR FURTHER INFORMATION CONTACT: Richard McNabb, State Office Director, Indiana State Office, Office of Surface Mining, Federal Building and U.S. Courthouse, Fifth Floor, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269–2646.

SUPPLEMENTARY INFORMATION: On September 28, 1981 at 46 FR 47467–47469, OSM published notice of the public hearing and the public comment period on the resubmitted Indiana program. On November 2 and 3, 1981, and November 16 and 17, 1981, OSM and Indiana Regulatory Authority officials met in executive session in Indianapolis, Indiana to discuss the resubmitted Indiana program (Administrative Record Nos. IN–0240, 0256, 0257). On December 18, 1981, the Director of OSM delivered a letter to Indiana which outlined areas or concern with the Indiana resubmission (IN–0258). On April 28, 1982, additional information was requested from Indiana as a result of public comment (IN–0266). This letter was revised on May 10, 1982 (IN–0267), and an executive session between OSM and Indiana was held on May 18 and 19, 1982 (See the meeting notes, IN–0268). Because Indiana has submitted new material (IN–0269), OSM is reopening the comment period until 4:00 p.m., June 15, 1982, to allow the public time to review and comment on the above meeting notes and material submitted by Indiana.

This announcement is made in keeping with OSM's commitment to public participation as a vital component in fulfilling the purposes of the Surface Mining Control and Reclamation Act of 1977.

The documents in the Indiana Administrative Record listed below may be reviewed and copied at the following addresses:

Office of Surface Mining, Fifth Floor, Federal Building & U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204, Phone: (317) 269–2635

Office of Surface Mining, Room 5315, 1100 L Street N.W., Washington, D.C. 20240, Phone: (202) 343–7896

Indiana Division of Reclamation, 209 West Washington Street, Room 201, Indianapolis, Indiana 46204, Phone: (317) 232–1555

Indiana Administrative Record Numbers: 0220, 0226, 0240, 0249, 0255, 0256, 0257, 0258, 0260, 0263, 0265, 0266, 0267, 0268, and 0269.

List of Subjects in 20 CFR Part 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 21, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82–14376 Filed 5–25–82; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 936

Abandoned Mine Land Reclamation Program

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

ACTION: Receipt of the abandoned mine land reclamation (AMLR) grant application from the State of Oklahoma.

SUMMARY: On April 13, 1982, the State of Oklahoma submitted to OSM its proposed AMLR grant application under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State grant application.

DATE: Written comments on the application must be received on or before 5:00 p.m. June 25, 1982.

ADDRESS: Copies of the full text of the proposed Oklahoma grant application are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Oklahoma State Office, 333 West Fourth Street, Room 3432, Tulsa, Oklahoma, and

Oklahoma Conservation Commission, 20 State Capitol Building, Oklahoma City, Oklahoma 73105

Written comments should be sent to: Robert L. Markey, State Office Director, Office of Surface Mining Reclamation and Enforcement, 333 West Fourth Street—Room 3432, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Robert L. Markey, State Office Director, (918) 581–7927.

SUPPLEMENTARY INFORMATION: On April 13, 1982, OSM received an AMLR grant application from the State of Oklahoma. The purpose of this submission is to implement the State reclamation program as codified in 30 CFR, Chapter VII, Subchapter T Part 936 as published in the **Federal Register** 47 FR 2989 on January 21, 1982.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*, establishes an AMLR program for the purposes of reclaiming and restoring land 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 and 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 grant application to implement the provisions of the approved State Reclamation Plan.

However, grants for mine reclamation may be issued only to States with an approved Title V Regulatory Program

and an approved State Reclamation Plan.

A State Reclamation Plan for Oklahoma was submitted to the Secretary on July 30, 1981 and approved on January 21, 1982 which demonstrated the capability of the State to administer an AMLR program in accordance with Title IV of SMCRA. In approving the State Plan the Secretary determined that the State had the necessary State legislation to implement the provisions of the Plan.

This notice lists the proposed projects and sets forth information concerning public participation in the Director's determinaiton of whether or not the submitted application should be approved.

Approval of the application would result in the implementation of approved projects for the reclamation of abandoned mine lands in Oklahoma.

All written comments must be mailed or hand carried to the State Director's Office above.

The Director has found that the State has given the public adequate notice and opportunity to comment in public hearings, and the record of such hearings does not reflect major unresolved controversies.

The comment period will close at 5:00 p.m. on June 25, 1982. Comments received after that time may not necessarily be considered. During the comment period representatives of the State Director's office will be available to meet between 8:00 a.m. and 4:00 p.m. at the request of members of the public to receive their advice and recommendations concerning the proposed State AMLR application.

Persons wishing to meet with representatives of the State Director's office during this time period may place such requests with Robert Markey, State Director, telephone (918) 581–7927 at the State Director's office above.

Meetings may be scheduled between 9 a.m. and noon and 1 p.m. and 4 p.m. Monday through Friday excluding holidays at the State Director's office.

The Director intends to continue to discuss the State's application with representatives of the State throughout the review process.

In order to comply with the requirements of the National Environmental Policy Act, OSM will assess the environmental effects of all State reclamation projects. The primary basis for this assessment will be the environmental information provided in the project grant application.

The Oklahoma AMLR grant application can be approved if:

1. The Director finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The application meets all the requirements of the OSM, AMLR program provisions and the required Federal circulars.

4. The State has an approved regulatory program and an approved State reclamation plan.

The following constitutes a summary of the contents of the submission:

1. Designation of authorized State Agency to administer the program,

2. Objectives and need for the assistance,

3. Project ranking and selection,

4. Coordination with other reclamation programs,

5. Results and benefits expected,

6. Plan of action pertaining to the scope,

7. Monthly or quarterly projections of accomplishments to be achieved,

8. Kinds of data to be collected and maintained,

9. Criteria used to evaluate the results and success of the projects,

10. Key individuals to be employed,

11. Precise location of the project and area to be served,

12. Budgetary calculations for each project,

13. Description of the public's participation in planning and preparation of the grant application, and

14. A complete environmental assessment for each project.

Reclamation projects included in application and location:

1. Title: Bryant—158, Location: Haskell County.

2. Title: Callahan—096, Location: Sequoyah County.

3. Title: Cullum—090, Location: Sequoyah County.

4. Title: Evans—007, Location: Haskell County.

5. Title: Horsepan Creek—240 Phase I, Location: Tulsa County.

6. Title: Panther Mine—190, Location: Haskell County.

7. Title: Reeves—101, Location: Sequoyah County.

8. Title: Rock Island—019, Location: Le Flore County.

9. Title: Volks—151, Location: Latimer County.

10. Title: White Creek—214, Location: Craig County.

List of Subjects in 30 CFR Part 936

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 21, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-14373 Filed 5-25-82; 8:45 am]

BILLING CODE 4310-05-M

---

30 CFR Part 950

Permanent State Regulatory Program of Wyoming

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior is considering modifying the deadline for Wyoming to meet one condition of approval of the State permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Pursuant to this request, the Secretary is requesting public comment on extending the deadline for the State to resolve condition (c) until May 20, 1983.

DATE: Comments must be received by June 25, 1982, at the address below, no later than 5:00 p.m.

ADDRESSES: Written comments must be mailed to: Office of Surface Mining, Administrative Record Office (SPA–361), Room 5315 L, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

Comments may be hand carried to: Office of Surface Mining, Room 239, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. or Office of Surface Mining, Room 5315, 1100 L Street, N.W., Washington, D.C.

Copies of the Wyoming request for an extension, and the Wyoming program are available for review at the following OSM office, Monday through Friday, 9:00 a.m. to 4:00 p.m., excluding holidays: Office of Surface Mining Reclamation and Enforcement, 1100 "L" Street, N.W., Room 5315, Washington, D.C., Telephone (202) 343–7896.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. Telephone: (202) 343–5351.

SUPPLEMENTARY INFORMATION: Under 30 CFR 732.13(i), the Secretary may conditionally approve a State permanent regulatory program which contains minor deficiencies where the deficiencies are of such a size and

nature as to render no part of the program incomplete, the State is actively proceeding with steps to correct the deficiencies, and the State agrees to correct the deficiencies according to a schedule set in the notice of conditional approval. The correction of each deficiency is a condition of the approval. The conditional approval terminates if the conditions are not met according to the schedule. The dates are established in consultation with the State based on the time required for changes to be adopted under State procedures or legislative schedules.

The Wyoming program was conditionally approved on November 26, 1980 (45 FR 78637–78684). In that document, the Secretary published a schedule for the State to meet each of the seven conditions of the State program. That schedule called for Wyoming to submit provisions to satisfy conditions (a)–(c) and (e)–(g) by March 26, 1981, and provisions to meet condition (d) by December 26, 1980.

Since the Secretary's conditional approval of the Wyoming program, OSM has proposed several revisions to the Federal permanent program rules which served as the standard for approval of Wyoming's program. Because OSM was concerned that States with conditionally approved programs would be expending valuable time pursuing program amendments to meet Federal requirements that would be changed, OSM asked each State to identify those conditions for which it would like an extension of time to meet. Wyoming requested that the deadline for the State to meet its conditions be extended to May 26, 1982. On October 30, 1981 (46 FR 54070–54071), OSM announced its decision to grant Wyoming's request. On March 26, 1981, the State submitted revisions to the State regulations intended to satisfy conditions (a), (d), (e) and (f). On March 23, 1981, the State submitted an Attorney General's opinion intended to satisfy condition (g). On February 18, 1982 (47 FR 7218–7220), the Assistant Secretary, Energy and Minerals, announced his decision, removing conditions (a), (d), (e) and (f), and granting an extension of the time by which Wyoming must satisfy condition (g) to May 20, 1983.

This notice is for the purpose of addressing the State's request for a second extension that would establish a new deadline for the State to meet condition (c). The State offered as one reason for requesting a further extension the fact that OSM has not yet finalized amendments to the permanent program rules. Some of these amendments may directly affect Wyoming's satisfaction of this condition. Further, Wyoming referred to the petition submitted by several western states, including Wyoming, to repeal a portion of 30 CFR 840.15 concerning the requirement that each State program provide for public participation consistent with 43 CFR Part 4. Specifically, the petition seeks repeal of 43 CFR 4.1294(b) as a requirement of State programs (46 FR 54761 and 46 FR 58465–58466). In accordance with the State's request, OSM is proposing that the deadline for the State to meet condition (c) be extended to May 20, 1983, the same date that condition (g) is to be satisfied.

In making a final decision on the State's request for an extension, OSM will consider the revisions to the Federal permanent program regulations that have been or will be proposed, but have not yet been finalized. OSM will reexamine the condition to determine whether revisions to the Federal rules are likely to have a bearing on changes the State is required to make to satisfy the condition.

I have determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on these rules. I have further certified that the proposed rules will not have a significant economic effect on a substantial number of small entities as the rule is essentially a timing change with no direct or indirect impact on small entities.

On August 28, 1981, the Office of Management and Budget (OMB) granted the Office of Surface Mining (OSM) exempton from sections 3, 4, 6 and 8 of Executive Order 12291 for all actions taken to approve, or conditionally approve, State regulatory programs, actions, or amendments. Therefore, a Regulatory Impact Analysis and regulatory review by OMB is not needed for this proposed extension.

List of Subject in 30 CFR Part 950

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Accordingly, 30 CFR Part 950 is proposed to be amended as set forth herein.

Dated: May 20, 1982.

William P. Pendley,

Acting Assistant Secretary, Energy and Minerals.

PART 950—WYOMING

* * * * *

§ 950.11 [Amended]

30 CFR 950.11(c) is proposed to be amended by substituting "May 20, 1983" for the date contained therein.

* * * * *

[FR Doc. 82-14368 Filed 5-25-82; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1984-4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On June 26, 1979, Indiana submitted as a revision to its State Implementation Plan (SIP) a revised sulfur dioxide (SO_2) regulation. This regulation, in part, sets a 6 pounds of SO_2 per million British Thermal Units heat input (lbs/MMBTU) emission limitation for sources in Floyd County. EPA proposed to approve this regulation for Floyd County on March 27, 1980 (45 FR 20437). EPA has recently modeled Floyd County and has found that a 6.0 lbs/MMBTU emission limit is sufficient to protect the primary national ambient air quality standards (NAAQS) in Floyd County but that a lower emission limitation for the Gallagher power station is necessary in order to protect the secondary SO_2 NAAQS in Floyd County.

EPA is, therefore, proposing to approve Indiana's present SO_2 regulation as a plan to protect the primary standards in Floyd County, but disapprove it as a plan to protect the secondary standard. Additionally, if EPA issues a final disapproval on this regulation as a plan for the secondary standard, the Administrator will issue a notice of SIP deficiency to Indiana which will require the State to develop a plan for Floyd County which protects the secondary standard in addition to the primary.

DATE: Comments on this rulemaking are due June 25, 1982.

ADDRESSES: Copies of the SIP revision and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone the contact given below before visiting the Region V Office.)

Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604

Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, D.C. 20460.

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

Send comments to Gary Gulezian, Chief, Regulatory Analysis Section (5AP–11), U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, Air Programs Branch, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION: On May 14, 1973, EPA approved Indiana's SO_2 SIP for Floyd County (38 FR 12698). The SIP regulation set an emission limitation for Public Service of Indiana's (PSI) Gallagher Station of 1.2 lbs. of SO_2/MMBTU of actual heat input. Final compliance with the rule was required by April 1, 1975. In 1974 Indiana adopted a new SO_2 regulation for Floyd County. Technical support submitted by the State of Indiana included ambient air quality data showing no monitored violations of the SO_2 air quality standards in Floyd County, and a modeling study which concluded that Gallagher's contribution to high SO_2 levels in Kentucky was minimal. On August 24, 1976, EPA approved this regulation for the Gallagher Station (41 FR 35676). Although this regulation did not impose an emission limitation of any kind on Gallagher, it did require the facility to install an ambient monitoring system and to maintain an emergency two week supply of fuel which is adequate to meet an emission limitation of 1.2 lbs. of SO_2/MMBTU. This fuel was to be used upon the State of Indiana's order during periods of adverse meteorological conditions.

Indiana submitted a revised SO_2 attainment strategy for certain counties and a revised statewide SO_2 regulation to EPA on June 26, 1979. This regulation is designed to demonstrate attainment of the SO_2 standards in the Lake, Marion, and LaPorte County nonattainment areas. The regulation also establishes a 6 lbs. of SO_2/MMBTU heat input emission limitation for fossil fuel fired power plants throughout most of the State (with certain condition applicable to Lake LaPorte and Marion Counties), including the Gallagher station. On March 27, 1980, EPA proposed to approve the revised APC–13 throughout most of the State, including Floyd County (45 FR 20437). The State recodified this regulation as 325 IAC 7 and resubmitted it on October 6, 1980. EPA has recently conditionally approved 325 IAC 7 as it applies to most counties in Indiana, but not as it applies to Floyd County. EPA today is reproposing action on 325 IAC 7 as it applies to Floyd County.

On May 14, 1979, EPA was petitioned by the Air Pollution Control District of Jefferson County, Kentucky to initiate proceedings, pursuant to Section 126(b) and (c) of the Clean Air Act, as amended in 1977 (42 U.S.C. 7401 *et seq.*), to determine whether the sulfur dioxide emissions from the PSI Gallagher Station In Floyd County, Indiana are causing or contributing to violations of the SO_2 standards in Kentucky and otherwise in violation of Section 110(a)(2)(E)(i) of the Act.

In order to study the issues raised by Jefferson County, EPA funded a computer dispersion modeling study of the greater Louisville area. Public comments were solicited and received on this modeling, and, in response to these comments, the modeling was slightly revised. This revised modeling was made available for public comment and review on March 9, 1981 (45 FR 15743). Two comments were received on this revised modeling. EPA responded to these comments in its Summary of the § 126 Gallagher Petition Record, Docket No. 5A–80–9, which is available at the above Region V address.

On July 30, 1981, EPA issued a proposed determination that Gallagher's emissions are not in violation of Section 110(a)(2)(E)(i) (45 FR 38937). The modeling discussed above and supplemental model runs predict that Indiana's 6.0 lbs/MMBTU emission limit will protect the primary standard in Indiana and will not allow Indiana sources to contribute appreciably to violations of the NAAQS which are predicted to occur in Kentucky, prior to the time by which sources in Kentucky are required to come into compliance with the Kentucky SIP. After compliance, no violations of the NAAQS are expected to occur in Kentucky. The modeling did predict, however, that violations of the secondary NAAQA will occur in Indiana if Gallagher emits at a rate greater than 4.7 lbs. of SO_2 MMBTU.

EPA is proposing to approve Indiana's SO_2 regulation in Floyd County as a plan to protect the primary NAAQS because the 6.0 lbs/MMBTU emission limit protects the primary SO_2 standard in Indiana, and disapprove the regulation as a plan to protect the secondary SO_2 standard because this emission limit does not assure attainment and maintenance of the secondary standard. If EPA issues final rulemaking which approves the 6.0 lbs/MMBTU emission limit as a plan sufficient to protect the primary standard but disapproves the emission limit as a plan to protect the secondary NAAQS, the 6.0 lbs/MMBTU emission limit will be enforceable by EPA until such time as EPA approves a new plan for that area. Finally, if EPA issues final rulemaking consistent with this proposal, EPA will issue a notice of deficiency to the State that its SIP is deficient in that it fails to protect the secondry standard in Floyd County.

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 the proposed approval of the emission limit as a plan for the primary standards, if promulgated, only approves a State action. It will impose no new requirements. The proposed disapproval of the limit as a plan for the secondary standard will impose, if promulgated, no new requirements at that time. EPA will address with respect to Executive order 12291, any regulations adopted by the State because of this disapproval, if promulgated, at the time EPA proposed action on the newly adopted regulations.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals will not have a significant economic impact on a substantial number of small entities. 46 FR 8709 (January 27, 1981). The attached rule, if promulgated, constitutes a SIP approval. The disapproval, if promulgated, will not impose any regulatory requirement on any source.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the EPA Region V Office listed above.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead Particulate matter, Carbon monoxide, Hydrocarbons.

(Sec. 110 and 301 of the Clean Air Act, as amended)

Dated October 16, 1981.

Valdas V. Adamkus,

Regional Administrator.

FR Doc. 82-14298 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 52

[A-1-FRL 2072-3]

Approval and Promulgation of Implementation Plans; New Hampshire Revisions—Group I and Group II CTG Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this document is to propose approval of revisions to the State Implementation Plan (SIP) for the State of New Hampshire concerning regulations for the control of volatile organic compounds (VOC). EPA is proposing to: 1. Approve a new regulation for rotogravure and flexography printing and revisions to existing regulations covering cutback asphalt and applicability; 2. approve in part a new regulation controlling refinery leaks and a revision to the compliance schedules regulation; and 3. take no action on regulations concerning coating of miscellaneous metal parts, leaks from tanks trucks, test methods, and the application of the "Bubble" concept. The intended effect of this action is to reduce the amount of hydrocarbons released from stationary sources, thereby decreasing the amount of ozone (a component of "smog") formed in the atmosphere.

DATE: Comments must be received on or before June 25, 1982.

ADDRESSES: Comments may be mailed to Harley F. Laing, Chief, Air Branch, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

Copies of the New Hampshire submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Air Branch, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, and Air Resources Agency, Health and Welfare Building, Hazen Drive, Concord, N.H. 03301.

FOR FURTHER INFORMATION CONTACT: Alan E. Dion, (617) 223-5630.

SUPPLEMENTARY INFORMATION: In the April 11, 1980 Federal Register (45 FR 24869) EPA conditionally approved the ozone attainment plan for the Merrimack Valley—Southern New Hampshire Interstate Air Quality Control Region. Continued approval of the ozone portion of New Hampshire's SIP depends in part on the adoption and submittal of Reasonably Available Control Technology (RACT) requirements for the sources covered by the first group of Control Technique Guidelines (CTGs) issued between January, 1978 and January, 1979. EPA published the CTGs in order to assist the states in determining RACT. The recommended emission limitations contained in the CTGs are a "presumptive norm", that is, they are emission limitations which EPA believes may be attained by applying RACT. EPA acknowledges that what is RACT for a general source category may not be reasonably available for a particular source or even several sources within a source category. It is EPA policy to accept, as part of a state's VOC control strategy, emission limitations for particular sources or source categories which are different from the EPA-recommended number, if such new emission limitations are based upon documented evaluations of what is reasonably available control technology for each source or groups of sources within the source category.

On August 17, 1981 the state submitted new rules dealing with two Group II VOC categories (coating of miscellaneous metal parts, and rotogravure and flexography printing); and revised existing rules concerning leaks at refineries and gasoline terminals, and the use of cutback asphalt.

The state did not submit regulations for the categories of perchloroethylene dry cleaners, coating of flat wood paneling, external floating roof tanks, pharmaceutical manufacturing and pneumatic rubber tire manufacturing. On January 25, 1982, however, the state submitted a letter certifying to EPA that it has no sources emitting more than 100 tons per year (TPY) in these categories. Consequently, New Hampshire will not be required to adopt regulations covering these categories. Also, for reasons explained later in this Notice, New Hampshire did not submit a regulation for leaks from gasoline tank trucks.

These current regulation submittals reflect New Hampshire's recent recondification from Regulation 22 to Air 1204 for VOC control regulation. However, the state has since further revised some of its regulation codes, and some of the code numbers referenced in this proposed rulemaking may not match the numbers presently contained in the New Hampshire Code of Administrative Rules. When the fully amended regulations are formally submitted to EPA Region I, any changes resulting from revisions or recodifications will be reflected in the final rulemaking.

EPA's proposed actions on the submitted regulations are discussed below:

I. Group II VOC Regulations

A. Coating of Miscellaneous Metal Parts

A new section Air 1204.17 was added to control emissions from the coating of miscellaneous metal parts and products. Although this regulation is consistent with the CTG recommendations, the state has indicated that it does not intend to require that a source electing to install add-on controls achieve the same reduction as would occur with a low-solvent compliance coating, because it does not interpret its regulation on a "gallons of solids applied" basis, but rather interprets it on a "gallons of coating applied" basis. As discussed in a May 5, 1980 memo from Richard Rhoads, which is available at the locations indicated in the **ADDRESSES** section of this Notice, this is not equivalent to RACT for this source category and EPA cannot approve the regulation.

Proposed Action: EPA proposes to take no action at this time on Air 1204.17 since this regulation does not represent RACT for this source category.

B. Rotogravure and Flexography Printing

A new section Air 1204.18 was added to control emissions from printing operations which employ rotogravure or flexographic processes. Emissions are limited by requiring use of inks whose liquid fraction is 75% water. This rule is RACT for this category.

Proposed Action: EPA proposes to approve Air 1204.18.

C. Leaks from Petroleum Refineries

Air 1204.11 concerning emission control methods for petroleum refineries was amended by adding subsection (d), which deals with leak tightness requirements, a Group II category covered by the CTG: *Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment.* The rule is consistent with this CTG except that it does not specify any monitoring and reporting requirements. As a result, EPA proposes to approve this regulation, but to take no action on the reporting and monitoring requirements to be used.

Proposed Action: EPA is proposing to: 1) approve Air 1204.11(d), and 2) take no action on the reporting and monitoring requirements for leaks from petroleum refinery equipment.

D. Leaks from Gasoline Tank Trucks

New Hampshire did not submit a regulation for leaks from gasoline tank trucks and vapor collection systems. Northeast States for Coordinated Air Use Management (NESCAUM), which includes the six New England states plus New York and New Jersey, has identified several problems associated with developing regulations in a highly urbanized area such as the Northeast where the states are so small that there is a significant amount of interstate gasoline transport by tank trucks. NESCAUM is working with EPA to try to develop a suitable control strategy which will be consistent regionwide.

Proposed Action: EPA proposes to take no action on this matter at the present time, but will continue to work with NESCAUM so the state can develop and submit a satisfactory approach to gasoline tank truck control to EPA by July 1, 1982.

II. Revisions to Group I VOC Regulations

A. Control of Cutback and Emulsified Asphalts

The state revised Air 1204.12 controlling the use of cutback asphalt and added a new Air 1204.13 dealing with the use of emulsified asphalt. While the restrictions on cutback asphalt are consistent with EPA guidelines, the amounts of solvent allowed in emulsified asphalt exceed the EPA recommendations. The state allows 7% solvent in seal coats or chip seals when dusty or dirty aggregate is used, 8% when emulsified is mixed with open graded aggregate not well washed, and 15% when mixed with dense graded aggregate. The CTG recommends 3%, 8% and 12%, respectively. EPA is proposing approval of the slightly higher state limits and is soliciting comments on this proposed action.

Proposed Action: EPA proposes approval of Air 1204.12 and 1204.13.

III. General VOC Regulations

A. Test Methods

In New Hampshire, compliance testing for stationary sources regulated under Air 1204 is authorized by Air 802. Air 802.04 requires that test methods be approved by either the EPA or the Air Resources Agency. The state has not adopted any test methods nor made reference to the particular test methods to be utilized, and has not committed to utilizing only EPA-approved test methods. This regulation is not approvable as presently written, and was not submitted as part of the SIP. Therefore, Air 1204 lacks appropriate test methods.

Under 40 CFR 52.12(c), in cases where a state has not adopted specific test methods as part of its SIP, the appropriate test methods prescribed in 40 CFR Part 60 shall be applied.

Proposed Action: EPA proposes to take no action on test methods at the present time, but will continue to apply published EPA test methods as prescribed in 40 CFR Part 60.

B. Compliance Schedules

Air 1204.21 has been expanded to indicate compliance schedules for all categories covered under Air 1204, including Group II VOC sources. It requires a compliance date which is as expeditious as possible, but no later than December 31, 1982, except that sources may be granted further extensions for good cause until December 31, 1987. EPA has given approval to compliance schedule regulations for other Region I states which may allow compliance extensions past December 31, 1982, but no later than July 1, 1985. However, the New Hampshire regulation allows extensions to the end of 1987. EPA feels this is an unreasonably long delay considering the current availability of low solvent coatings and control technology. Therefore, EPA proposes to approve this regulation provided that compliance schedules for sources that will not be in compliance by December 31, 1982 be submitted to EPA for approval as source-specific SIP revisions.

Proposed Action: EPA proposes approval of Air 1204.21 provided that compliance schedules which extend compliance beyond December 31, 1982 are submitted to EPA as source-specific SIP revisions.

C. Bubble Concept

Air 1204.01 allows the use of a "Bubble" as detailed in Air 609 to achieve compliance. Air 609 has not been submitted to EPA for approval as a revision to the SIP. The use of any bubble must comply with the EPA criteria as contained in the April 7, 1982 **Federal Register** (47 FR 15076). The New Hampshire bubble regulation does not satisfy all those criteria, but states that individual bubble plans must be submitted to EPA as revisions to the SIP.

Proposed Action: EPA proposes to take no action on Air 1204.01, with the understanding that individual bubbles will be submitted to EPA as SIP revisions.

D. Limits to Applicability

Air 1204.03, dealing with the limits to applicability of the VOC categories, was amended to exempt solvent metal cleaning and printing sources whose combined operations total less than 100 TPY. Generally, EPA allows such exemptions for printers but not for degreasers. However, since New Hampshire is a rural nonattainment area and is expected to attain the NAAQS for ozone by December 31, 1982, all such 100 TPY exemptions are acceptable.

Proposed Action: EPA proposes to approve Air 1204.03.

All comments received will be available for inspection at EPA's Region I office, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

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 FR 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, 1981 certification. This action only approves state actions, and as such imposes no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of the Regulatory Impact Analysis. This regulation is not major because it proposes acceptance of regulations already promulgated by the State of New Hampshire, and imposes no new requirements.

This proposed regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

The Administrator's decision to approve or disapprove the plan revisions will be based on whether they meet the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)))

Dated: March 1, 1982.

Leslie Carothers,

Regional Administrator.

[FR Doc. 82-14307 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1812/P231; PH FRL 2129-8]

Benomyl; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the combined residues of the fungicide benomyl and its metabolites in or on the raw agricultural commodity avocados at 3 parts per million (ppm). The proposed amendment to establish a maximum permissible level for residues of the fungicide in or on the commodity was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before June 25, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7700) at the above address.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 6E1812 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of Florida.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the fungicide benomyl (methyl 1-[butylcarbamoyl]-2-benzimidazole carbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in or on the raw agricultural commodity avocados at 3 ppm. This represents an increase in the existing tolerance level of 1 ppm for avocados.

A comprehensive review of the data available for the chemical was conducted in connection with the Rebuttable Presumption Against Registration (RPAR) for benomyl which was published in the **Federal Register** of December 6, 1977 (42 FR 61788).

This presumption was based on information indicating that benomyl posed the risks of mutagenicity (point mutation and non-disjunction), spermatogenic depression and teratogenic effects, acute toxicity to aquatic organisms and significant population reduction in nontarget organisms. On August 30, 1979 (44 FR 51166), the Agency published a Preliminary Notice of Determination, which concluded that benomyl continued to pose the risks noted above with the exception of point mutations and significant population reductions in nontarget organisms. In this Notice and the accompanying Position Document 2/3, the Agency weighed the risks and benefits of use together, and determined that certain modifications to the terms and conditions of use were necessary to reduce the risks of use to applicators.

Subsequent to these findings, data have been made available indicating that benomyl is oncogenic and additional teratogenic tests have been submitted. A re-review of the presently registered uses of benomyl in light of the oncogenic and teratogenic adverse effects is currently being performed.

EPA has established 30 mg/kg of body weight/day as the provisional NOEL (no-observed-effect level), based on the teratogenicity studies evaluated to date. The estimated daily dose to a 60-kg woman resulting from 3.0 ppm benomyl residue on avocados is 0.4 per day. This results in a safety margin of over 4500. The Agency acknowledges that dietary serving sizes may vary and that the NOEL, when finally established, may be as much as an order of magnitude lower. However, considering these variables and a more conservative NOEL, the margin of safety is anticipated to be at least 100.

The nature of the residues is adequately understood and adequate analytical procedures (fluorometric or high-pressure chromatography using ultraviolet detection) are available for enforcement purposes. Secondary residues are not expected in or on meat, milk, poultry or eggs since neither the avocado nor its plant byproducts are used in feeds.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR Part 180 would protect the public health. The pesticide is considered useful for the purpose for which the tolerance is sought. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 6E1812/P231]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division, at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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 tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a 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 24950).

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated May 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.294 be amended by increasing the current tolerance level for the raw agricultural commodity avocados to read as follows:

§ 180.294 Benomyl; tolerances for residues.

* * * * *

Commodities	Parts per million
Avocados	3
* * * * *	*

[FR Doc. 82-13932 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E1756/6E1800/8E2103/9E2137/P219; PH-FRL 2130-1]

Methyl Parathion; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice reproposes that a tolerance be established for residues of the insecticide methyl parathion (*O,O*-dimethyl-*O*-*p*-nitrophenyl thiophosphate) in or on the raw agricultural commodity parsley and at the same time proposes that tolerances be established in or on certain raw agricultural commodities. These proposals, to establish maximum permissible levels for residues of methyl parathion on the commodities, were submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before June 25, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of October 2, 1978 (43 FR 45412) that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide and food additive petitions (PP 6E1756, 6E1762, and FAP 6H5128) to EPA. Pesticide petition 6E1756, submitted on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of California, Florida, and New Jersey, requested that the Administrator propose that 40 CFR 180.121 be amended by the establishment of a tolerance for residues of the insecticide parathion (*O,O*-diethyl-*O*-*p*-nitrophenyl thiophosphate) and its methyl homolog in or on the raw agricultural commodity parsley at 1 part per million (ppm). This petition was later amended to limit the proposed tolerance to the methyl homolog of parathion.

IR-4 submitted petitions 6E1762 and 6H5128 on behalf of the IR-4 Technical Committee and the Agricultural Experiment Station of California, requesting that the Administrator propose the establishment of a tolerance for residues of the insecticide parathion and its methyl homolog in fish at 0.2 ppm (6E1762) resulting from application of the insecticide to waters of Clear Lake, California, for the control of the Clear Lake gnat, Chaoborus astictopus Dyar and Shannon, in programs conducted by the Lake County, California, Mosquito Abatement District and in potable water derived from the Clear Lake region with a tolerance limitation of 0.01 ppm (6H5128). These petitions were later amended to propose tolerances for residues of methyl parathion only. However, at this time, the tolerances proposed in 6E1762 and 6H1528 are not being reproposed pending further scientific review.

IR-4 has also submitted pesticide petitions 6E1800, 8E2103, and 9E2137 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Idaho and Washington (6E1800); Arizona, Oklahoma, and Texas (8E2103); and New York (9E2137). Those petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide parathion or its methyl homolog in or on the raw agricultural commodities lentils at 1 ppm (6E1800); guar beans at 0.2 ppm (8E2103); and birdsfoot trefoil forage at 1.25 ppm and birdsfoot trefoil hay at 5.0 ppm (9E2137). These petitions were later amended to limit the proposed tolerances to the methyl homolog of parathion.

The date submitted in the petitions and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances were a 2-year rat feeding study with a no-observed-effect level (NOEL) of 1 ppm; a 6-month dog feeding study with a NOEL of 0.05 milligram (mg)/kilogram (kg) of body weight (bw)/day or 2ppm; a multigeneration rat reproduction/teratology study with a NOEL of 10 ppm; and a human volunteer oral ingestion study with a NOEL of 0.1 mg/kg of bw/day, which is equivalent to about 4 ppm based on the whole diet of humans.

On May 25, 1979, the NCI made available (44 FR 30448) the report on bioassay of methyl parathion for possible carcinogenicity. It was concluded that under the conditions of this bioassay, methyl parathion was not carcinogenic for the strain of F344 rats or B6C3F1 mice of either sex. On the basis of the results of the F344 rat and B6C3F1 mouse studies with methyl parathion and the fact that the non-carcinogenic methyl parathion is not expected to bioconvert to the potentially carcinogenic parathion, dietary exposure to methyl parathion-treated commodities does not appear to pose an oncogenic risk.

The National Cancer Institute (NCI) has also completed a study on the possible carcinogenicity of parathion (43 FR 55467, November 28, 1978), and it was concluded that under the conditions of this bioassay, parathion was not carcinogenic to the strain of B6C3F1 mice. In the male and female strain of Osborne-Mendel rats receiving parathion in their diet, there was a higher incidence of adrenocortical tumors than in pooled or historical controls, suggesting that parathion is carcinogenic to this strain of rat.

On the basis of the results of the Osborne-Mendel rat study with parathion, the Agency considers the lifetime cancer risk from dietary exposure of parathion-treated commodities to exceed the risk criteria of 10^{-6}. The Agency will reevaluate all the existing tolerances for parathion now that the final report and validation audit of the laboratory records on the carcinogenicity studies are available. Tolerances have previously been established for residues in or on a variety of raw agricultural commodities ranging from 0.1 ppm to 5 ppm, including parathion or its methyl homolog in or on alfalfa (fresh) at 1.25 ppm and in or on alfalfa hay at 5 ppm.

The metabolism of methyl parathion is adequately understood and an adequate analytical method (gas chromatography using either electron capture or flame photometric detection) is available for enforcement purposes. Birdsfoot trefoil is not a human food nor poultry feed item and, considering the rapid degradation of methyl parathion in rumen fluid and the absence of residues in milk from feeding of greater than 10 ppm of methyl parathion to dairy cattle, we consider the use of methyl parathion-treated trefoil hay as animal feed to fall within category 3 of § 180.6(a) in regard to meat and milk.

The acceptable daily intake (ADI) for parathion is 0.005 mg/kg of bw/day with regard to chronic effects other than oncogenicity. The ADI is based on the 2-year rat feeding study (NOEL of 0.05 mg/kg/day) and uses a 10-fold safety factor. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.3000 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5 kg daily diet is calculated to be 0.5719 mg/day. The total percentage increase added to the existing TMRC by the proposed tolerances is less than one percent.

In light of the above information, the Agency proposes to establish the requested tolerances for residues of methyl parathion only. Such tolerances established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request on or before June 25, 1982, that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, "[PP 6E1756/6E1800/8E2103/9E2137/P219]." All written comments filed in response to this petition will be available for public inspection in the office of Donald Stubbs from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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 tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a 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 24950).

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedures, Agricultural commodities, Pesticides and pests.

Dated: May 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.121 be revised to read as follows:

§180.121 Parathion or its methyl homolog; tolerances for residues.

(a) Tolerances are established for residues of the insecticide parathion (*O, O*-diethyl-*O-p*-nitrophenyl thiophosphate) or its methyl homolog in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa (fresh)	1.25
Alfalfa hay	5
Almonds	0.1(N)
Almond hulls	3
Apples	1
Apricots	1
Artichokes	1
Avocados	1
Barley	1
Beans	1
Beets (with or without tops)	1
Beet greens (alone)	1
Blackberries	1
Blueberries (huckleberries)	1
Boysenberries	1
Broccoli	1
Brussels sprouts	1
Beets, sugar	0.1(N)
Beets, sugar (tops)	0.1(N)
Cabbage	1
Carrots	1
Cauliflower	1
Celery	1
Cherries	1
Citrus fruits	1
Clover	1
Collards	1
Corn	1
Corn, forage	1
Cottonseed	0.75
Cranberries	1
Cucumbers	1
Currants	1
Dates	1
Dewberries	1
Eggplants	1
Endive (escarole)	1
Figs	1
Filberts	0.1(N)
Garlic	1
Gooseberries	1
Grapes	1
Grass (forage)	1
Guavas	1
Hops	1
Kale	1
Kohlrabi	1
Lettuce	1
Loganberries	1
Mangoes	1
Melons	1
Mustard greens	1
Mustard seed	0.2
Nectarines	1
Oats	1
Okra	1
Olives	1
Onions	1
Parsnips (with or without tops)	1
Parsnip greens (alone)	1
Peaches	1
Peanuts	1
Pears	1
Peas	1
Peas, forage	1
Pecans	0.1(N)
Peppers	1
Pineapples	1
Plums (fresh prunes)	1
Potatoes	0.1(N)
Pumpkins	1
Quinces	1
Radishes (with or without tops)	1
Radish, tops	1
Rape seed	0.2
Raspberries	1
Rice	1
Rutabages (with or without tops)	1
Rutabaga tops	1
Safflower seed	0.1(N)
Sorghum	0.1(N)
Sorghum fodder	3
Sorghum forage	3
Soybeans	0.1
Soybean hay	1
Spinach	1
Squash	1
Strawberries	1
Summer squash	1
Sugarcane	0.1(N)
Sugarcane fodder	0.1(N)
Sugarcane forage	0.1(N)
Sunflower seed	0.2
Sweet potatoes	0.1(N)
Swiss chard	1
Tomatoes	1
Turnips (with or without tops)	1
Turnip greens	1
Vetch	1
Walnuts	0.1(N)
Wheat	1
Youngberries	1

(b) Tolerances are established for residues of the insecticide *O, O*-diethyl-*O-p*-nitrophenyl thiophosphate (the methyl homolog of parathion) in or on the following raw agricultural commodities:

Commodities	Parts per million
Birdsfoot trefoil forage	1.25
Birdsfoot trefoil hay	5
Guar beans	0.2
Lentils	1
Parsley	1

[FR Doc. 82-13931 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 0000/P237-DN-FRL 2131-7]

Certain Pesticide Chemicals; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to increase and or decrease tolerance levels for the pesticide chemicals malathion; *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosporothioate; methyl 3-[(dimetoxyphosphinyl)oxy]butenoate, alpha and beta isomers; dioxathion; ethion; 2-chloro-1-(2,4-dichorophenyl) vinyl diethyl phosphate; and phosalone and to revise certain commodity descriptions. The proposed amendments to the regulations would provide conformity between U.S. tolerances and tolerances established for the above pesticide chemicals by the Codex Alimentarius Commission.

DATE: Comments must be received on or before June 25, 1982.

ADDRESS: Written comments to the designated Product Manager (PM). Mailing address of PM's: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Pesticide chemical	PM	Telephone
Malathion Methyl 3-[(dimethoxy-phosphinyl)oxy] butenoate, alpha and beta isomers Ethion	William Miller—PM16.	(703-557-2600)
Dioxathion 2-Chloro-1-(2,4-dichorophenyl) vinyl diethyl phosphate *O,O-Diethyl O-*(2-isoprophy-6-methyl-4-pyrimidinyl) phosphorothioate.	George LaRocca—PM15.	(703-557-2400)
Phosalone	Jay Ellenberger—PM12.	(703-557-2386)

SUPPLEMENTARY INFORMATION: The United States participates in the activities of the Codex Alimentarius Commission (CAC), which is concerned with the development of international food standards, including tolerances for pesticide residues in food. The purpose of this organization is, in general, to protect consumer health and ensure fair practices in the food trade while fostering the movement of agricultural products across international boundaries.

As the last step of the Codex process, countries are asked to accept the proposed tolerances. Before acceptance of a proposed tolerance by the United States, it must be determined that the proposed tolerance fully complies with the requirements of the Federal Food, Drug, and Cosmetic Act, and a regulation must have been promulgated. Accordingly, the EPA has proposed that tolerances for residues on the listed insecticides be established in or on raw agricultural commodities as follows:

Commodities	Proposed tolerances (ppm)	Existing U.S. tolerances (ppm)
A. Malathion (*O,O*-dimethyl dithiophosphate of diethyl mercaptosuccinate)		
Broccoli (pre-H)	5.0	8.0
B. *O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate		
Apples	0.5	0.75
Apricots	0.5	0.75
Beans, lima	0.5	0.75
Beans, snap	0.5	0.75
Beets, sugar, roots	0.5	0.75
Beets, tops	0.7	0.75
Blackberries	0.5	0.75
Blueberries	0.5	0.75
Boysenberries	0.5	0.75
Broccoli	0.7	0.75
Brussel sprouts	0.7	0.75
Cabbage	0.7	0.75
Cauliflower	0.7	0.75
Cattle, fat (pre-s appli)	0.7	0.75
Cattle, meat (fat basis) (pre-s appli)	0.7	0.75
Cattle, mbyp (fat basis) (pre-s appli)	0.7	0.75
Celery	0.7	0.75
Citrus	0.7	0.75
Collards	0.7	0.75
Corn (inc. sweet K + CWHR)	0.7	0.75
Cranberries	0.5	0.75
Dandelion	0.7	0.75
Dewberries	0.5	0.75
Endive	0.7	0.75
Figs	0.5	0.75
Kale	0.7	0.75
Lettuce	0.7	0.75
Mustard greens	0.7	0.75
Nectarines	0.5	0.75
Parsnips	0.5	0.75
Peaches	0.7	0.75
Pears	0.5	0.75
Peas with pods (determined on pods after removing any shell present when marketed)	0.5	0.75
Peppers	0.5	0.75
Pineapples	0.5	0.75
Plums (fresh prunes)	0.5	0.75
Radishes	0.5	0.75
Raspberries	0.5	0.75
Sheep, fat (pre-s appli)	0.7	0.75
Sheep, meat (fat basis) (pre-s appli)	0.7	0.75
Sheep, mbyp (fat basis) (pre-s appli)	0.7	0.75
Spinach	0.7	0.75
Strawberries	0.5	0.75
Squash, summer	0.5	0.75
Swiss chard	0.7	0.75
Turnips, roots	0.5	0.75
Watercress	0.7	0.75

U.S. tolerances are currently expressed as cattle mbyp (pre-slaughter application (pre-s appli)); cattle, meat (pre-s appli) at 0.75 ppm and sheep, mbyp (pre-s appli); sheep, meat (pre-s appli) at 0.75 ppm. For purposes of these proposed tolerances, the U.S. description for meat is being revised to incorporate the "fat basis" concept which makes it compatible with the Codex description.

Commodities	Proposed tolerances	Existing U.S. tolerances
C. Methyl 3-[(dimethoxyphosphinyl)oxyl]butenoate, alpha and beta isomers		
Citrus	0.2	0.25
Cucumbers	0.2	0.25
Tomatoes	0.2	0.25

The CAC has an established 0.2 ppm tolerance in or on citrus fruit, whereas the current U.S. tolerance is for residues in or on the individual commodities grapefruit, lemons and oranges at 0.25 ppm. For consistency with the Codex group tolerance for citrus, the individual U.S. citrus tolerances are being revised to the citrus grouping pursuant to 40 CFR 180.34 (f).

Commodities	Proposed tolerances	Existing U.S. tolerances
D. Dioxathion (2,3-p-dioxanedithiol-S,*S-bis* (*O,O*-diethylphosphorodithioate)) incurred from the use of the insecticide composed of a mixture of approximately 70 percent of its cis and trans isomers and approximately 30 percent of related compounds		
Stone fruits	0.1(N)	0.14(N)

Commodities	Proposed tolerances	Existing U.S. tolerances
E. Ethion (*O,O,O',O'*-tetraethyl *S,S'*-methylene bisphosphorodithioate) including its oxygen analog (*S*-[[(diethoxy-phosphinothioyl) thio] methyl] *O,O*-diethyl phosphorothioate)		
Cattle, fat	2.5	2.5
Cattle, meat (fat basis)	2.5	0.75
Cattle, mbyp	1.0	0.75
Pears	2.0	1.0

U.S. tolerances are currently established at 2.5 ppm in or on fat of cattle and 0.75 ppm in or on meat and meat byproducts of cattle. For purposes of these proposed tolerances, the U.S. description of meat is being revised to incorporate the "fat basis" concept which makes it compatible with the Codex description.

Commodities	Proposed tolerances	Existing U.S. tolerances
F. Phosalone (*S*-(6-chloro-3-(mercaptomethyl)-2-benzoxazolinone) *O,O*-diethyl phosphorodithioate)		
Nuts	0.1(N)	.05

U.S. tolerances are currently established in or on brazil nuts, bush nuts, butternuts, cashews, chestnuts, filberts, hazelnuts, hickory nuts, macadamia nuts, pecans, and walnuts at 0.05 ppm (negligible residue) and at 0.1 ppm in almonds (N). Codex tolerances are 0.1 ppm (limit of determination) for chestnuts and pecans. U.S. tolerances are being revised to the grouping nuts pursuant to 40 CFR 180.34(f).

Commodities	Proposed tolerances	Existing U.S. tolerances
Cattle, fat	0.2	0.15
Milk (on a fat basis)	0.2	0.1
Sheep, fat	0.2	0.15

Based on consideration given the data published by the CAC and other relevant material, the Agency has concluded that the residues expected to result from the use of these insecticides in or on the listed commodities will not pose a hazard when used in accordance with the label directions. It is proposed, therefore, that the tolerances be established as set forth below.

When the proposed Codex tolerances are compared with the corresponding established U.S. tolerances, it can be reasonably concluded that chemical and/or toxicological differences between the two sets of tolerances are minor and/or insignificant and that the proposed tolerances will protect the public health. Since differences between U.S. tolerances and the proposed Codex tolerances are minor and/or insignificant, the Agency considers the amendment of the U.S. regulations for the listed insecticides to conform to the Codex proposed tolerances is a nonsubstantive administrative change. However, the Agency wishes to provide an opportunity for public comment on this proposal.

Any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulations. Comments must bear a notation indicating the document control number, "[PP 0000/P237]". All written comments filed in response to this petition will be available for public inspection in the office of the Product Manager for the chemical from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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 tolerances or raising tolerance levels or establishing exemption from tolerance requirements do not have a 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 24950).

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Raw agricultural commodities, Pesticides and pests.

Dated: May 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

It is proposed therefore, that 40 CFR Part 180 be amended as follows:

1. Section 180.111 be amended by revising the established tolerance for broccoli (Pre-H) to read as follows:

§ 180.111 Malathion; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Broccoli (Pre-H)	[1]5.0

[1] Decrease.

2. Section 180.153 be revised to read as follows:

§ 180.153 O, O-Diethyl O-(2 isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

Tolerances are established for residues of the insecticide O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa, fresh	40.0
Alfalfa, hay	10.0
Almonds	0.5
Almonds, hulls	3.0
Apples	[1]0.5
Apricots	[1]0.5
Bananas (NMT 0.1 ppm shall be present in the pulp after peel is removed)	0.2
Beans, forage	25.0
Beans, hay	10.0
Beans, guar	0.1
Beans, guar, forage	0.1
Beans, lima	[1]0.5
Beans, snap	[1]0.5
Beets, roots	0.75
Beets, sugar, roots	[1]0.5
Beets, sugar, tops	10.0
Beets, tops	[1]0.7
Birdsfoot trefoil	40.0
Birdsfoot trefoil, hay	10.0
Blackberries	[1]0.5
Blueberries	[1]0.5
Boysenberries	[1]0.5
Broccoli	[1]0.7
Brussels sprouts	[1]0.7
Cabbage	[1]0.7
Carrots	0.75
Cattle, fat (pre-s appli)	[1]0.7
Cattle, meat (fat basis) (pre-s appli)	[1]0.7
Cattle, mbyp (fat basis) (pre-s appli)	[1]0.7
Cauliflower	[1]0.7
Celery	[1]0.7
Cherries	0.75
Citrus	[1]0.7
Clover (fresh)	40.0
Clover, hay	10.0
Coffee beans	0.2
Colards	[1]0.7
Corn, forage	40.0
Corn (inc sweek k + CWHR)	[1]0.7
Cottonseed	0.2
Cowpeas	0.1
Cowpeas, forage	0.1
Cranberries	[1]0.5
Cucumbers	0.75
Dandelions	[1]0.7
Dewberries	[1]0.5
Endive (escarole)	[1]0.7
Figs	[1]0.5
Filberts	0.5
Grapes	0.75
Grass (NMT 40 ppm shall remain 24 hours after appli)	60.0
Grass, hay	10.0
Hops	0.75
Kale	[1]0.7
Kiwi fruit	0.75
Lespedeza	1.0
Lettuce	[1]0.7
Loganberries	0.75
Melons	0.75
Mushrooms	0.75
Mustard greens	[1]0.7
Nectarines	[1]0.5
Olives	1.0
Onions	0.75
Parsley	0.75
Parsnips	[1]0.5
Peaches	[1]0.7
Peanuts	0.75
Peanuts, forage	40.0
Peanuts, hay	10.0
Peanuts, hulls	10.0
Pears	[1]0.5
Peavine hay	10.0
Peavines	25.0
Peas with pods (determined on peas after removing any shell present when marketed)	[1]0.5
Pecans	0.5
Peppers	[1]0.5
Pineapples	[1]0.5
Pineapples, forage	40.0
Plums (fresh prunes)	[1]0.5
Potatoes	0.1
Potatoes, sweet	0.1
Radishes	[1]0.5
Raspberries	[1]0.5
Rutabagas	0.75
Sheep, fat (pre-s appli)	[1]0.7
Sheep, meat (fat basis) (pre-s appli)	[1]0.7
Sheep, mbyp (fat basis) (pre-s appli)	[1]0.7
Sorghum, forage	10.0
Sorghum, grain	0.75
Soybeans	0.1
Soybeans, forage	0.1
Spinach	[1]0.7
Squash, summer	[1]0.5
Squash, winter	0.75
Strawberries	[1]0.5
Sugarcane	0.75
Swiss chard	[1]0.7
Tomatoes	0.75
Turnips, roots	[1]0.5
Turnips, tops	0.75
Walnuts	0.5
Watercress	[1]0.7

[1] Decrease.

3. Section 180.157 be revised to read as follows:

§ 180.157 Methyl 3-[(dimethoxyphosphinyl)oxy] butenoate, alpha and beta isomers; tolerances for residues.

Tolerances are established for residues of the insecticide methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers, in or on the following raw agricultural commodities:

Commodities	Parts per million
Alfalfa	1.0
Apples	0.5
Artichokes	1.0
Beans	0.25
Beets, garden (incl. tops)	1.0
Birdsfoot trefoil, forage	1.0
Birdsfoot trefoil, hay	1.0
Broccoli	1.0
Brussels sprouts	1.0
Cabbage	1.0
Carrots	0.25
Cauliflower	1.0
Celery	1.0
Cherries	1.0
Citrus	0.2
Clover	1.0
Collards	1.0
Corn, field, forage	1.0
Corn, grain, field	0.25
Corn, pop, forage	1.0
Corn, pop, grain	0.25
Corn, sweek (K + CWHR)	0.25
Corn, sweet, forage	1.0
Cucumbers	[1]0.2
Eggplant	0.25
Grapes	0.5
Kale	1.0
Lettuce	0.5
Melons (incl. cantaloupes, honeydew, mellon, and muskmelon, determined on the edible portion with rind removed)	0.5
Mustard greens	1.0
Okra	0.25
Onions (green)	0.25
Parsley	1.0
Peaches	1.0
Pears	0.5
Peas	0.25
Peavines	1.0
Peppers	0.25
Plums	1.0
Potatoes	0.25
Raspberries	1.0
Sorghum, forage	1.0
Sorghum, grain	1.0
Spinach	1.0
Squash, summer	0.25
Strawberries	1.0
Tomatoes	[1]0.2
Turnips	0.25
Turnips, tops	1.0
Walnuts (determined on the nut meats with shell removed)	0.25
Watermelon	0.5

[1] Decrease.

4. Section 180.171 be amended by revising the established tolerance for stone fruits to read as follows:

§ 180.171 Dioxathion; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Stone fruits	[1]0.1(N)
* * * * *	

[1] Decrease

5. Section 180.173 be revised to read as follows:

§ 180.173 Ethion; tolerances for residues.

Tolerances are established for residues of the insecticide ethion (*O,O,O',O'*-tetraethyl *S,S'*-methylene bisphosphorodithioate) including its oxygen analog (*S*-[[(diethoxyphosphinothioyl)thio] methyl] *O,O*-diethyl phosphorothioate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Almonds	0.1
Almond, hulls	5.0
Apples	2.0
Apricots	0.1
Beans	2.0
Cattle, fat	2.5
Cattle, meat (fat basis)	[1]2.5
Cattle, mbyp	[1]1.0
Cherries	0.1
Chestnuts	0.1
Citrus fruits	2.0
Corn, fodder	14.0
Corn, forage	14.0
Corn, grain	0.1
Cottonseed	0.5
Cucumbers	0.5
Eggs	0.2
Eggplants	1.0
Filberts	0.1
Goats, fat	0.2
Goats, meat	0.2
Goats, mbyp	0.2
Grapes	2.0
Hogs, fat	0.2
Hogs, meat	0.2
Hogs, mbyp	0.2
Horses, fat	0.2
Horses, meat	0.2
Horses, mbyp	0.2
Melons	2.0
Milk fat (reflecting (N) residues in milk)	0.5
Nectarines	1.0
Onions	1.0
Peaches	1.0
Pears	[1]2.0
Pecans	0.1
Peppers	1.0
Pimentos	1.0
Plums (fresh prunes)	2.0
Poultry, fat	0.2
Poultry, meat	0.2
Poultry, mbyp	0.2
Sheep, fat	0.2
Sheep, meat	0.2
Sheep, mbyp	0.2
Sorghum, forage	2.0
Sorghum, grain	2.0
Squash, summer	0.5
Strawberries	2.0
Tomatoes	2.0
Walnuts	0.1

[1] Increase.

6. Section 180.263 be revised to read as follows:

§ 180.263 Phosalone; tolerances for residues.

Tolerances are established for residues of the insecticide phosalone (*S*-(6-chloro-3-(mercaptomethyl)-2-benzoxazolinone) *O,O*-diethyl phosphorodithioate) in or on raw agricultural commodities as follows:

Commodities	Parts per million
Almond, hulls	50.0
Apples	10.0
Apricots	15.0
Artichokes	25.0
Cattle, fat	0.25
Cattle, meat	0.25
Cattle, mbyp	0.25
Cherries	15.0
Citrus fruits	3.0
Goats, fat	0.25
Goats, meat	0.25
Goats, mbyp	0.25
Grapes	10.0
Hogs, fat	0.25
Hogs, meat	0.25
Hogs, mbyp	0.25
Horses, fat	0.25
Horses, meat	0.25
Horses, mbyp	0.25
Nectarines	15.0
Nuts	[1]0.1
Peaches	15.0
Pears	10.0
Plums (fresh prunes)	15.0
Potatoes	0.1 (N)
Sheep, fat	0.25
Sheep, meat	0.25
Sheep, mbyp	0.25

[1] Increase.

7. Section 180.322 be revised to read as follows:

§ 180.322 2-Chloro-1-(2,4-dichlorophenyl) vinyl diethyl phosphate; tolerances for residues.

Tolerances are established for residues of the insecticide 2-chloro-1-(2,4-dichlorophencyl) vinyl diethyl phosphate in or on raw agricultural commodities as follows:

Commodities	Parts per million
Cattle, fat	[1]0.2
Eggs	0.005
Goats, fat	0.005
Hogs, fat	0.005
Horses, fat	0.005
Milk, fat (on a fat basis)	[1]0.2
Poultry, fat	0.005
Sheep, fat	[1]0.2

[1] Increase.

[FR Doc 82-14176 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 82-276; RM-4060]

TV Broadcast Stations in Billings and Miles City, Mont.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to reassign TV Channel *6 from Miles City, Montana, where it is reserved for noncommercial educational use, to

Billings, Montana, for commercial use. Also Channel 10 would replace Channel 6 in Miles City as the noncommercial educational channel.

DATES: Comments must be filed on or before July 5, 1982, and reply comments on or before July 20, 1982.

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

FOR FURTHER INFORMATION CONTACT: Philip S. Cross, Broadcast Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Billings and Miles City, Montana); BC Docket No. 82–276, RM–4060.

Adopted: May 13, 1982.

Released: May 20, 1982.

1. The Commission has under consideration a petition for rule making filed by Comanche Enterprises ("petitioner"). Petitioner requests that the Television Table of Assignments be amended to reassign Channel *6 from Miles City, Montana, where it is reserved for noncommercial educational use, to Billings, Montana, for commercial use and to replace Channel *6 with Channel 10 in Miles City as the noncommercial educational channel.

2. In support of its request, petitioner states that the proposal complies with all Commission rules concerning minimum mileage separation and other technical requirements. Petitioner further states that it will apply for operation on the channel, if it is assigned as requested.

3. UHF television Channels 14 and 20 are currently assigned to Billings for commercial operation but are not in use. Petitioner contends that "development of these existing allocations is impractical because of the surrounding mountainous terrain and the inherent disabilities in UHF television service which, in tandom, prevent effective signal transmission to the Billings community." For these reasons, petitioner asserts that the third major television network (NBC) has been unwilling to extend affiliation to Billings. The city now has two VHF commercial television stations: KTVQ (Channel 2) (CBS affiliate) and KULR-TV (Channel 8) (ABC affiliate). VHF-TV Station KOUS (NBC affiliate); Hardin, Montana, fifty miles east of Billings, broadcasts its signal to Billings. However, petitioner alleges that the signal is poor in quality due to a large ridge between the KOUS transmitter and receiving sets in Billings.

4. Petitioner points out that the Commission originally assigned television Channels 3, *6 and 10 to Miles City in 1952 when it first established the Television Table of Assignments. Since that time, only Station KYUS (NBC affiliate), Channel 3, has become fully operational. Channels *6 and 10 are currently used for secondary translator operations which rebroadcast the signals of the two full service television stations in Billings.

5. Petitioner emphasizes that reassignment of reserved Channel 6 from Miles City to Billings for commercial use "would neither preclude nor impair the potential development of educational service in Miles City;" that Channel 10 would be reserved for future noncommercial educational use should the demand for such service develop.

6. Billings (population 66,798),[1] the seat of Yellowstone County (population 108,035), is located in south central Montana, approximately 280 kilometers (175 miles) southeast of Great Falls, Montana. Miles City (population 9,602), the seat of Custer County (population 13,109) is located in eastern Montana approximately 215 kilometers (135 miles) northeast of Billings.

7. The assignment of an additional VHF channel to Billings could provide a third commercial network service on VHF channels. We have previously found such use of the spectrum desirable as opposed to putting one of the network affiliates on a UHF channel. See, *Medford, Oregon*, 43 FR 1503 (1977). We also note that the Miles City assignment has been vacant for some 30 years and we believe that it would be desirable to utilize the channel now that there is an interest in its use. The possibility of a noncommercial educational station at Miles City will not be affected since we also propose to switch the reservation from Channel *6 to Channel 10.

8. Inasmuch as Billings is within 250 miles of the Canadian border, the concurrence of Canada is required with respect to the proposed assignment.

9. In view of petitioner's showing herein, the Commission concludes that it is appropriate to propose the following requested amendments to the Television Table of Assignments, § 73.606(b) of the Commission's Rules, for the community listed as follows:

City	Channel No.	
	Present	Proposed
Miles City, Montana.	3–, *6, 10	3–, *10.
Billings, Montana	2, 8, *11, 14, and 20+.	2, 6, 8, *11, 14, and 20+.

10. 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.

11. Interested parties may file comments on or before July 5, 1982, and reply comments on or before July 20, 1982, and are advised to read the Appendix for the proper procedures.

12. 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 Television Table of Assignments, § 73.606(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 §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published. February 9, 1981.

13. For further information concerning this proceeding, contact Philip S. Cross, Broadcast Bureau, (202) 632–5414. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is not 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. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

[1] Population figures are taken from the 1980 U.S. Census (Advance Report).

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

PART 73—RADIO BROADCAST SERVICES

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) and 0.204(b) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build 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 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 original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82-14344 Filed 5-25-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-253; RM-4081]

FM Broadcast Stations in Seabrook, Tex.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of FM Channel 221A to Seabrook, Texas, in response to a petition filed by The Spanish Aural Service Company. The proposed assignment could provide Seabrook with a first aural service.

DATES: Comments must be filed on or before June 24, 1982, and reply comments on or before July 9, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), table of assignments, FM Broadcast Stations. (Seabrook, Texas); BC Docket No. 82-253, RM-4081.

Adopted: May 5, 1982.

Released: May 10, 1982.

1. A petition for rule making was filed by The Spanish Aural Services Company ("petitioner") proposing the assignment of Channel 221A to Seabrook, Texas, as its first FM assignment. Petitioner states that he will file an application for a construction permit, if the channel is assigned.

2. Seabrook (population 4,670), in Harris County (population 2,409,544),[1] is located on Galveston Bay approximately 40 kilometers (25 miles) east of Houston, Texas. It presently has no local aural service.

3. Seabrook is part of a community comprised of eight incorporated cities. It is a growing seaside community with a flourishing construction industry having many residential units under construction, completed or planned. This community also is said to have a growing commercial fishing industry and is located near the National Aeronautics and Space Administration and the Lunar Planetary Institute. We are also told that approximately 63% of the population is employed as professionals. There are 19 schools in the area with the University of Houston providing higher education. Petitioner believes that because of the growing economy and the expanding population, a first aural service is needed at Seabrook to satisfy the increasing needs of this cultural and intellectual community.

4. The channel can be assigned in compliance with the mileage separation rules. However, the assignment is based on Station KYND, Pasadena, Texas, changing channels from 223 to 225 (BC Docket No. 81-233), adopted October 5, 1981. In that proceeding, the license for Station KYND was modified to specify Channel 225.

5. In view of the fact that the proposed assignment could provide Seabrook with its first FM broadcast service, the Commission believes it is appropriate to propose amending the FM Table of Assignments (§ 73.202(b)) with regard to the following community:

City	Channel No.	
	Present	Proposed
Seabrook, Texas		221A

6. The Commission's authority to institute rule making proceeding, showings required, cut-off procedures, and filing requirements are contained in

[1] Population figures are taken from the 1980 U.S. Census, Advance Report.

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.

7. Interested parties may file comments on or before June 24, 1982, and reply comments on or before July 9, 1982, and are advised to read the Appendix for the proper procedures.

8. 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 section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. 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. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which they reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 603, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

PART 73—RADIO BROADCAST SERVICES

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 §§ 0.204(b) 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 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 original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

FR Doc. 82-14342 Filed 5-25-82; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-252; RM-4068]

TV Broadcast Station in Carroll, Iowa; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF television Channel 30 to Carroll, Iowa, as its first commercial television channel in response to a petition filed by Michael D. Pauley.

DATES: Comments must be filed on or before June 17, 1982, and reply comments on or before July 2, 1982.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television.

In the matter of amendment of § 73.606(b), table of assignments, Television Broadcast Stations. (Carroll, Iowa); BC Docket No. 82-252, RM-4068.

Adopted: May 4, 1982.

Released: May 7, 1982.

1. The Commission herein considers a petition for rule making filed by Michael D. Pauley ("petitioner"), which seeks the assignment of UHF television Channel 30 to Carroll, Iowa. Petitioner expressed an interest in applying for the channel, if assigned.

2. Carroll (population 9,705)[1] is the seat of Carroll County (population 22,951) and is located approximately 115 kilometers (72 miles) northwest of Des Moines, Iowa. It has one unoccupied noncommercial educational assignment

[1] Population figures are taken from the 1980 U.S. Census.

(Channel *18) and no local commercial television broadcast service.

3. Petitioner states that Carroll is provided local radio service from two stations, KLIM(AM) and KKRL(FM). The nearest operating commercial television station is said to be 62 miles away in Ames, Iowa.

4. A site restriction of 3.9 miles south is needed to avoid short spacing to unused Channel 30 in Marshall, Minnesota.

5. In view of the foregoing, the Commission finds that it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments (§ 73.606(b) of the Rules) with regard to the city of Carroll, Iowa, as follows:

City	Channel No.	
	Present	Proposed
Carroll, Iowa	*18–	*18–, 30+

6. 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.

7. Interested parties may file comments on or before June 17, 1982, and reply comments on or before July 2, 1982, and are advised to read the Appendix for the proper procedures.

8. 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 Television Table of Assignments, § 73.606(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 §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. 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. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

PART 73—RADIO BROADCAST SERVICES

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 §§ 0.204(b) and 0.281(b)(6) of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build 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) Counterporposals 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 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 § 1.402 (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 original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 82–14343 Filed 5–25–82; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 47, No. 102
Wednesday, May 26, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forms Under Review by Office of Management and Budget

May 21, 1982.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Comments and questions about the items in the listing should be directed to the agency person named at the end of each entry. If you anticipate commenting on a form but find that preparation time will prevent you from submitting comments promptly, you should advise the agency person of your intent as early as possible.

Copies of the proposed forms and supporting documents may be obtained from: Richard J. Schrimper, Statistical Clearance Officer, (202) 447-6201.

New

• Forest Service
Forest Industry Productivity Survey
Nonrecurring
Businesses or other institutions: 200 responses; 50 hours; not applicable under 3504(h)
Hans Gregersen (613) 373-1754

Extension

• Animal and Plant Health Inspection Service
9 CFR 11—Horse Protection Regulations
VS 19-7
On occasion
Businesses or other institutions: 2,032 responses; 577 hours; not applicable under 3504(h)
Dr. D. Schwindaman (301) 436-7833
• Agricultural Stabilization and Conservation Service
Application for Settlement of Indebtedness
ASCS-539
Annually
Farms: 100 responses; 50 hours; not applicable under 3504(h)
Bob Taylor (202) 382-0185
• Rural Electrification Administration
Estimate Work Orders—REA Borrowers
REA 218
On occasion
Businesses or other institutions: 975 responses; 2,925 hours; not applicable under 3504(h)
Roland Heard (202) 382-8227
• Agricultural Marketing Service
Cotton Market Canvass
CN 73-1
On occasion
Businesses or other institutions: 1,750 responses; 280 hours; not applicable under 3504(h)
Loyd R. Frazier (202) 447-2147

Richard J. Schrimper,
Statistical Clearance Officer.

[FR Doc. 82-14284 Filed 5-25-82; 8:45 am]
BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

[Order 82-5-109; Docket 38885, et. al.]

Aeroamerica, et al.; Applications

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of May 1982.

In the matter of employee protection program applications on behalf of employees of Aeroamerica for determination of qualifying Dislocation (Docket 38885); Employee protection program applications on behalf of employees of Airlift International for determination of qualifying dislocation (Docket 38418); Employee protection program applications on behalf of employees of Air New England for determination of qualifying dislocation (Docket 40201); Employee protection program applications on behalf of employees of American Airlines For determination of qualifying dislocation (Docket 38570); Employee protection program applications on behalf of emplyees of Braniff International Airways for determination of qualifying dislocation (Docket 38978); Employee protection program applications on behalf of employees of Continental Airlines for determination of qualifying dislocation (Docket 38720); Employee protection program application on behalf of employees of Delta Air Lines for determination of qualifying dislocation (Docket 39700); Employee protection program application on behalf of employees of Eastern Air Lines (Docket 38586); Employee protection program application on behalf of employees of Mackey International Airlines for determination of qualifying dislocation for determination of qualifying dislocation (Docket 39783); Employee protection program applications on behalf of employees of Overseas National Airways for determination of qualifying dislocation (Docket 34562); Employee protection program application on behalf of employees of Pan American World Airways for determination of qualifying dislocation (Docket 38883); Employee protection program applications on behalf of employees of Trans World Airlines for determination of qualifying dislocation (Docket 38184); and Employee protection program applications on behalf of employees of United Airlines for determination of qualifying dislocation (Docket 38571).

Order

The Airline Deregulation Act (ADA), Pub. L. 95-504, was enacted on October 24, 1978. Section 43 of the ADA [1] is entitled "Employee Protection Program." This program, which is to be administered by the Secretary of Labor, applies to certain employees of airlines that had been certificated as of the date of enactment of the ADA. It provides protection for airline employees (other than officers or members of the board of directors) who, as of the date of enactment of the ADA, had been employed by one carrier since October 24, 1974.

The program provides for Federal assistance payments, including

[1] 49 U.S.C. 1552.

assistance for relocation, to protected workers who have been deprived of employment or have had their compensation reduced because the air carrier employer has undergone a qualifying dislocation. A "qualifying dislocation" is defined in section 43(h) of the ADA as a bankruptcy or major contraction in employment "the major cause of which is the change in reguatory structure provided by the Airline Deregulation Act of 1978." A "major contraction" in turn is defined as "a reduction by at least 7½ percent of the total number of full-time employees of an air carrier within a 12-month period * * * [excluding] employees who are deprived of employment because of a strike or who are terminated for cause." It is the responsibility of the Civil Aeronautics Board to determine whether an air carrier has experienced a bankruptcy or a major contraction [2] and, if so, whether it has undergone a qualifying dislocation. If we determine that a carrier has undergone a qualifying dislocation, we will notify the Secretary of Labor, who will decide which employees of the carrier are eligible for monthly assistance benefits and relocation assistance, and the amounts of assistance to which they are entitled. Payments will be made by the Department of Labor.[3]

On July 17, 1980, we issued a notice of proposed rulemaking in which we proposed procedures for implementing our responsibilities under the Employee Protection Program.[4] Although we accepted applications based upon the proposed procedures, we decided not to make any determinations until we had adopted a final rule after having had a chance to consider comments to the proposed rulemaking. On November 18, 1981, we adopted a final rule and, after approval by the Office of Management and Budget (OMB), we issued it on March 3.[5]

We have received 33 applications on behalf of employees of 13 carriers: Aeroamerica (Dockets 38885 and 38979); Airlift International (Dockets 38418, 40342 and 40352); Air New England (Dockets 40201, 40251, 40349, 40529 and 40530); American Airlines (Dockets 38570 and 39115); Braniff Airways (Dockets 38978 and 40280); Continental Air Lines (Dockets 38720, 38816 and 39524); Delta Air Lines (Docket 39700); Eastern Air Lines (Docket 38586); Mackey International Airlines (Docket 39783); Overseas National Airways (ONA) (Dockets 34562 and 34711); Pan American World Airways (Dockets 38883 and 40279); Trans World Airlines (TWA) (Dockets 38184, 38193, 38196, 38884, 39013 and 39032); and United Air Lines (Dockets 38571, 38882 and 39525).[6] Since we require only one application per airline to trigger an investigation, we will consolidate into one Docket all applications on behalf of the employees of one particular carrier. Accordingly, for Aeroamerica, Docket 38979 will be consolidated into Docket 38885; for Airlift International Dockets 40342 and 40352 will be consolidated into Docket 38418; for Air New England, Dockets 40251, 40349, 40529 and 40530 will be consolidated into Docket 40201; for American, Docket 39115 will be consolidated into Docket 38570; for Braniff, Docket 40280 will be consolidated into Docket 38978; for Continental, Docket 38816 and 39524 will be consolidated into Docket 38720; for ONA, Docket 34711 will be consolidated into Docket 34562; for Pan Am, Docket 40279 will be consolidate into Docket 38883; for TWA, Dockets 38193, 38196, 38884, 39013 and 39032 will be consolidated into Docket 38184; and for United, Dockets 38882 and 39525 will be consolidated into Docket 38571.

Major Contraction Findings

According to the employment data supplied by the Financial and Cost Analysis Division of our Office of Economic Analysis for the period January 1, 1979 through December 31, 1981,[7] nine of the 13 carriers considered have experienced major contractions [8] because, since January 1, 1979, each of their reported full-time employment levels has declined 8 percent or more during at least one 12-month period.

We are using an 8-percent figure instead of the 7½ percent figure set forth in the statute. Since we require that carriers report merely the number of employees who have been paid, the reported figures do not enable us to disregard employees terminated for cause, as required by section 43(h)(4) of the ADA. In the final rule, we established a presumption that in most cases the number of terminations for cause would be too small to matter, as follows: We are treating reductions between 7 and 8 percent in already reported employment levels as "close cases," and are requiring additional information about terminations for cause from the employer-carriers before making major contraction findings.[9] In all other cases, we presume that the number of employees terminated for cause is small enough that it would not affect the outcome. Thus, any carrier showing a full-time employment decline of 8 percent or more during a 12-month period is considered to have experienced a major contraction; and any carrier showing a decline of 7 percent or less is considered not to have experienced a major contraction during that period.

We have not determined whether two of the carrier employers, Aeronamerica and Overseas National Airways (ONA), experienced major contractions. In accordance with §§ 314.2 and 314.6 as adopted in PR–245, which reflect the scheme established in section 43 of the ADA, an air carrier cannot have experienced a qualifying dislocation unless on October 24, 1978, the date of enactment of the ADA, it held a certificate issued under section 401 of the Federal Aviation Act of 1958. Since Aeronamerica did not possess such a certificate on October 24, 1978, it could not have suffered a qualifying dislocation even if it had experienced a major contraction. We therefore expect to dismiss the applications in Docket 38885.

We also expect to dismiss the application in Docket 34562 regarding

[2] If circumstances indicate that a major contraction will occur, we may make an advance determination of a major contraction before the 7½ percent figure is actually reached.

[3] The Employee Protection Program also provides first right-of-hire protection for certain furloughed employees. Although this "Duty to Hire Protection Employees" (section 43(d) of the ADA is also administered by the Secretary of Labor, it does not require any findings by the Civil Aeronautics Board.

[4] EDR–406/PDR–72, Docket 38483; 45 FR 49291, July 24, 1980.

[5] PR–245, ER–1285, Docket 38483; 47 FR 9744, March 5, 1982. PR–245, concerning the procedures to be used to determine whether a qualifying dislocation has occurred, has an effective date of April 3. ER–1285, concerning regular monthly reporting requirements for carriers, has an effective date on May 3.

[6] The individual employee applicants are listed in Appendix D (filed as part of the original document).

[7] Appendix A. We have not analyzed any employment data since December 1981.

[8] Appendix B contains the time periods during which the major contractions have occurred. We believe that it is important to state when major contractions occurred in order to assist the Department of Labor in determining which furloughed employees will qualify for assistance. (See Appendix C for estimated periods of eligibility.)

[9] Close cases are listed in Appendix B under the "Possible Major Contraction" headings. Because of the overlap with clear cases, resolution of the close ones will at most add one month to the overall period of major contractions for each of four carriers. In some instances, we will not require additional information from carriers for close cases. For example, although Pan Am's full-time employment figures for September 1981 and November 1981 were 7.72 percent less and 7.75 percent less, respectively, than its employment figures for September 1980 and November 1980, these months are contained within other major contraction periods. Accordingly, the additional information that we would normally require for close cases will not be necessary. For Eastern Air Lines, however, the only possibility of a major contraction involves a close case, therefore requiring additional information.

ONA. Section 43(h)(2) of the ADA provides that, for a qualifying dislocation to occur, the bankruptcy or major contraction of the air carrier must take place "during the first ten complete calendar years occurring after the date of enactment of the Airline Deregulation Act," or in other words, between January 1, 1979, and December 31, 1988. Although ONA was not dissolved until 1979, it had voluntarily ceased operations and disposed of its remaining aircraft equipment in September of 1978.[10] The cessation of operations took place not only prior to the January 1, 1979 threshold date, but also before the ADA was enacted. Therefore, ONA could not have suffered a qualifying dislocation even if it had experienced a bankruptcy or major contraction.

We have examined the employment data for the other 11 carrier employers with regard to possible major contraction occurrences, and we make the following findings:

(1) *Airlift International.* Comparing the full-time employment figure for Airlift in March 1979 with its figures for the following 12 months, we find that Airlift suffered a major contraction in March 1980. Comparing the full-time employment figures for Airlift in October 1979 through April 1980, with its figures for the next 12 months, respectively, we find that Airlift suffered major contractions during each month from January 1980 through April 1981.[11] If we also find that these major contractions were qualifying dislocations, a protected employee furloughed by Airlift from March 1979 through April 1981 may eligible for assistance under the Employee Protection Program. [12]

(2) *Air New England.* Comparing Air New England's full-time employment figures in May, June, July and September 1980 with its figures from the next 12 months, respectively, we find that Air New England suffered major contractions in September and December 1979, January 1980 through July 1980, September 1980 through June 1981, and September 1981. [13] If we also find that these major contractions were qualifying dislocations, a protected employee furloughed by Air New England from May 1979 through October 1981 [14] may be eligible for assistance under the Employee Protection Program. (See fn. 12.) [15]

(3) *American.* Comparing the full-time employment figures for American from December 1979 through 1980 with its figures for the next 12 months, respectively, we find that American suffered major contractions from December 1980 through October 1981. If we also find that these major contractions were qualifying dislocations, a protected employee furloughed by American from December 1979 through October 1981 may be eligible for assistance under the Employee Protection Program. (See fn. 12.)

However, we cannot yet make a finding that American also experienced a major contraction in November 1980 based upon its November 1979 employment level. Its full-time employment figure for November 1980 was 7.64 percent less than it was for November 1979. Since we view this as a close case, we will require additional data from the carrier.[16]

(4) *Braniff.* Comparing Braniff's full-time employment figures from September 1979 through December 1980 with its figures for the next 12 months, respectively, we find that Braniff suffered major contractions from September 1980 through December 1981. If we also find that these major contractions were qualifying dislocations, a protected employee furloughed by Braniff from September 1979 through December 1981 may be eligible for assistance under the Employee Protection Program. (See fn. 12.) [16a]

(5) *Continental.* Comparing the full-time employment figures for Continental from November 1979 through April 1980 with its figures from the next 12 months, respectively, we find that Continental suffered major contractions from November 1980 through April 1981. If we also find that these major contractions were qualifying dislocations, a protected employee furloughed by Continental from November 1979 through April 1981 may be eligible for assistance under the Employee Protection Program. (see fn. 12.)

However, we cannot yet make a finding that Continental also experienced a major contraction in October 1980 based upon its October 1979 employment level. Its full-time employment figure for October 1980 was 7.27 percent less than it was for October 1979. Since we view this a close case, we will require additional data from the carrier.[17]

(6) *Delta.* Based upon our employment data through December 1981, we find that Delta has not experienced a major contraction. We therefore expect to dismiss the application in Docket 39700.

(7) *Eastern.* Based upon our employment data through December 1981, we cannot yet make a finding that Eastern experienced a major contraction. Its full-time employment figure for December 1981, however, was 7.07 percent less than it was for January 1981. Since we view this as a close case, we will require additional data from the carrier.

(8) *Mackey International.* The only full-time employment figures that we have for Mackey are from January 1981 through August 1981.[18] Based upon those

[10] Order 80-2-23, February 15, 1980, fn.1.

[11] There have been no employment figures for Airlift since April 1981. The carrier has been grounded since June 4, 1981. By Order 82-2-127, February 26, 1982, we noted that there was no reasonable likelihood of the carrier's rehabilitation, and directed all interested persons to show cause why we should not revoke its certificate authority for Route 180 to operate between the United States, Brazil and Argentina. We will require the carrier to supply the missing employment data.

[12] See Appendix C. Note, however, that we will ordinarily make only one qualifying dislocation determination in a 12-month period. Therefore, within the 12-month period following the occurrence of a qualifying dislocation, any major contraction that occurs will be announced to be a qualifying dislocation without our embarking on a full investigation to determine its major cause. It will then be the Department of Labor's responsibility to determine whether an individual employee was an eligible protected employee as set forth in section 43(a)(1) of the Airline Deregulation Act. (To be a protected employee, section 43(h)(1) of the ADA requires that the employee have been employed by a carrier certificated as of the date of enactment of the ADA, October 24, 1978, for four years prior to the date of enactment, that is, since October 24, 1974.)

[13] We do not have full-time employment figures for January, February, April, October, November 1979, or October 1981. By notice filed October 22, 1981, Air New England informed us that it was ceasing all operations and suspending all of its services as a certificated air carrier effective October 31, 1981. By Order 81-11-112, November 17, 1981, we allowed it to suspend services on October 31, 1981. We will require the carrier to supply the missing employment data.

[14] A skeleton crew may have been retained for a short period of time following the cessation of operations on October 31, 1981. Those employees, if subsequently furloughed, may also be eligible for assistance.

[15] Even though there were no major contractions in October and November 1979, August 1980 (a close case), and July and August 1981, those months were contained within other major contraction periods. Therefore, any protected employee furloughed during those months may still be eligible for assistance. Employment data reveal similar occurrences at Pan Am, TWA and United.

[16] If we find a major contraction in November 1980, there will be an overlap with the December 1980 major contraction with regard to possible eligibility for assistance for employees furloughed in all months except November 1979.

[16a] Since a determination of qualifying dislocation is good for 12 months (see footnote 12) employees of Braniff who were furloughed in May 1982 as a result of the carrier's decision to file for bankruptcy would still be covered by any determination of qualifying dislocation of the carrier from May through December 1981.

[17] If we find a major contraction in October 1980, there will be an overlap with the November 1980 contraction with regard to possible eligibility for assistance for employees furloughed in all months except October 1979.

[18] Mackey terminated its business operations in October 1981 (Mackey International Fitness Investigation, Docket 39731, Initial Decision of

figures, Mackey suffered major contractions from March 1981 through August 1981. If we also find that these major contractions were qualifying dislocations, a protected employee furloughed by Mackey from January 1981 through August 1981 may be eligible for assistance under the Employee Protection Program. (see fn. 12.)

(9) *Pan American.* Comparing Pan Am's full time employment figures from November 1979 through May 1981 with those of the next 12 months, respectively, (up to December 1981), we find that Pan Am suffered major contractions from November 1980 through August 1981, as well as in October and December 1981. (see fn. 8.) If we also find that these major contractions were qualifying dislocations, a protected employee furloughed by Pan Am from November 1979 through December 1981 may be eligible for assistance under the Employee Protection Program. (see fn. 12 and fn. 15.)

However, we cannot yet make a finding that Pan Am also experienced a major contraction in October 1980 based upon its October 1979 employment level. Its full-time employment figure for October 1980 was 7.77 percent less than the combined full-time employment figures of Pan Am and National for October 1979. (see Appendix B, fn. 2.) Since we view this as a close case, we will require additional data from the carrier.[19]

(10) *TWA.* Comparing TWA's full-time employment figures in April, July, August, and September 1979, October, November and December 1980 with those of the following 12 months, respectively, we find that TWA suffered major contractions in each month from October 1979 through September 1980, and October, Novemver and December 1981. If we also find that these major contractions were qualifying dislocations, a protected employee furloughed by TWA from April 1979 through December 1981 may be eligible for assistance under the Employee Protection Program. (See fn. 11 and fn. 15.)

However, we cannot yet make a finding that TWA also experienced a major contraction in February 1980 or March 1980 based upon its March 1979 employment level. Its full-time employment figures for February 1980 and March 1980 were 7.71 percent less and 7.31 percent less, respectively, than its employment figure for March 1979. Since we view this as a close case, we will require additional data from the carrier.[20]

(11) *United.* Comparing United's full-time employment figures in September, October, November and December 1979, January, November and December 1980 with its figures from the next 12 months, respectively, we find that United suffered major contractions in September, October, November and December 1980, January, November and December 1981. If we also find that these major contractions were qualifying dislocations, a protected employee furloughed by United from September 1979 through December 1981 may be eligible for assistance under the Employee Protection Program. (See fn. 12 and fn. 15.)

Answers

We will serve a copy of each application upon the persons listed in § 314.11(c) of our final rule—the employer-carrier of the applicant, the collective bargaining representatives of that carrier's employees, the Secretary of Labor, the Secretary of Transportation, and any State agencies that are acting as agents of the Secretary of Labor to administer the Employee Protection Program.

Persons filing answers may address our major contraction findings, discussed above. In cases where we find that a carrier has experienced a major contraction, however, we expect answers to focus on whether the major contraction amounted to a qualifying dislocation. Answers should therefore state whether the major cause of the major contraction was the change in regulatory structure provided by the ADA and include any information and arguments that support this conclusion. We did not define "the major cause" in the final rule. We stated instead that our interpretation of this phrase would evolve as we gained experience with actual cases involving specific carriers and employees. Persons filing answers need not restate arguments made in their comments to our proposed rulemaking, but we encourage them to provide as specific information as possible on the question of causation. Interested persons should file answers by Docket and carrier as set forth in Ordering Paragraphs 3 and 4 below.

Section 314.12 of our final rule provides that answers be filed within 15 days after the service date of an application. However, because this is the first order concerning the Employee Protection Program, and because we are asking interested persons to provide answers on a complex subject, we will allow additional time for answers. Therefore, any person may file an answer within 60 days after the service date of this order.[21]

Accordingly,

1. We consolidate the following Dockets: Docket 38979 into Docket 38885; Dockets 40342 and 40352 into Docket 38418; Dockets 40251, 40349, 40520 and 40530 into Docket 40201; Docket 39115 into Docket 38570; Docket 40280 into Docket 38978; Dockets 38816 and 39524 into Docket 38720; Docket 34711 into Docket 34562; Docket 40279 into Docket 38883; Dockets 38193, 38196, 38884, 39013 and 39032 into Docket 38184; and Dockets 38882 and 39525 into Docket 38571;

2. We find that Airlift International, Air New England, American, Braniff, Continental, Mackey International, Pan Am, TWA and United experienced major contractions for the periods set forth in this order;

3. We institute the following individual investigations to determine whether carriers that have experienced major contractions or bankruptcies have also suffered qualifying dislocations:

(a) Airlift International Employee Protection Program Investigation—Docket 38418;

(b) Air New England Employee Protection Program Investigation—Docket 40201;

(c) American Airlines Employee Protection Program Investigation—Docket 38570;

(d) Braniff International Airways Employee Protection Program Investigation—Docket 38978;

(e) Continental Air Lines Employee Protection Program Investigation—Docket 38720;

(f) Mackey International Airlines Employee Protection Program Investigation—Docket 39783;

(g) Pan American World Airways Employee Protection Program Investigation—Docket 38883;

(h) Trans World Airlines Employee Protection Program Investigation—Docket 38184; and

Administrative Law Judge John M. Vittone, p. 10). We will, however, require that Mackey supply the missing employment data.

[19] If we find a major contraction in October 1980, there will be an overlap with the November 1980 major contraction with regard to possible eligibility for assistance for employees furloughed in October 1979.

[20] If we find a major contraction in February 1980 or March 1980, there will be an overlap with the April 1980 major contraction with regard to possible eligibility for assistance for employees furloughed in all months except March 1979.

[21] We have already received an answer from Eastern Air Lines concerning the application in Docket 38586 and an answer from Delta Air Lines concerning the application in Docket 39700.

(i) United Air Lines Employee Protection Program Investigation—Docket 38571;

4. Answers in those cases for which an investigation has not been instituted shall be filed by Docket and carrier as follows:

(a) Major Contraction Determination of Aeroamerica—Docket 38885;

(b) Major Contraction Determination of Delta Air Lines—Docket 39700;

(c) Major Contraction Determination of Eastern Airlines—Docket 38586; and

(d) Major Contraction Determination of Overseas National Airways—Docket 34562;

5. We will serve a copy of each "Application for Determination of Qualifying Dislocation" upon the air carrier employer of the applicant, upon each collective bargaining representative of employees of the carrier, upon the Secretary of Labor, upon the Secretary of Transportation, and upon any State agencies that are acting as agents of the Secretary of Labor to administer the Employee Protection Program;

6. Answers to the applications and our findings, shall be due no later than July 27, 1982;

7. We direct Airlift International to file in Docket 38418 no later than June 14, 1982, its full-time employee figures for each month since April 1981;

8. We direct Air New England to file in Docket 40201 no later than June 14, 1982, its full-time employment figures for January, Feburary, April, October and November 1979, and October through December 1981;

9. We direct American Airlines to file in Docket 38570 no later than June 14, 1982, the number of full-time employee positions that were vacant as a result of terminations for cause, for each of the pay periods nearest November 15, 1979, and November 15, 1980;

10. We direct Continental Air Lines to file in Docket 38720 no later than June 14, 1982, the number of full-time employee positions that were vacant as a result of terminations for cause, for each of the pay periods nearest October 15, 1979, and October 15, 1980;

11. We direct Eastern Air Lines to file in Docket 38586 no later than June 14, 1982, the number of full-time employee positions that were vacant as a result of terminations for cause, for each of the pay periods nearest January 15, 1981, and December 15, 1981;

12. We direct Mackey International Airlines to file in Docket 39783 no later than June 14, 1982, its full-time employment figures for each month in 1979 and 1980, and for each month since August 1981;

13. We direct Pan American World Airways to file in Docket 38883 no later than June 14, 1982, the number of full-time employee positions that were vacant as a result of terminations for cause, for each of the pay periods nearest October 15, 1979, and October 15, 1980; and

14. We direct Trans World Airlines to file in Docket 38184 no later than June 14, 1982, the number of full-time employee positions that were vacant as a result of terminations for cause, for each of the pay periods nearest March 15, 1979, February 15, 1980, March 15, 1980, October 15, 1979, and October 15, 1980.

We will publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[**]

Phyllis T. Kaylor,

Secretary.

[**] All Members concurred.

APPENDIX A.—FULL-TIME EMPLOYEES

Month and year	Airlift Int'l [3]	Air New England [3]	American	Braniff	Continental	Delta	Eastern	Mackey Int'l [3]	National [3]	Pan American [3]	Trans World	United [1]
January 1979	902	.....	36,807	13,554	11,568	33,608	35,887	.....	8,406	26,428	35,166	50,620
February 1979	902	.....	36,934	13,806	11,589	33,670	35,853	.....	8,373	26,371	35,367	50,794
March 1979	910	519	37,113	14,002	11,623	34,240	35,917	.....	8,381	26,694	36,002	51,096
April 1979	890	.....	37,431	14,269	11,669	34,439	35,926	.....	8,342	26,700	36,878	51,276
May 1979	885	630	38,031	14,579	11,725	34,901	35,928	.....	8,441	26,893	37,649	[1]51,384
June 1979	915	629	38,712	14,661	11,887	35,664	36,204	.....	8,024	27,302	38,191	[1]51,406
July 1979	906	671	39,248	14,918	12,230	35,758	36,808	.....	8,382	27,528	38,202	51,266
August 1979	909	665	40,703	14,932	11,992	35,599	37,267	.....	8,461	27,828	37,511	51,375
September 1979	940	601	39,419	14,731	12,028	34,963	37,452	.....	8,431	27,816	36,088	51,489
October 1979	953	.....	39,278	14,762	12,123	35,290	37,662	.....	8,449	27,796	35,139	51,618
November 1979	914	.....	39,251	14,788	11,984	35,728	37,992	.....	8,427	27,532	33,763	51,623
December 1979	878	550	39,337	14,783	11,963	35,290	38,206	.....	8,427	27,479	33,633	51,543
January 1980	851	546	39,395	14,714	11,893	35,271	38,433	.....	8,427	27,613	33,485	51,368
February 1980	842	547	39,309	14,640	11,812	35,262	38,365	.....	.....	35,877	33,225	51,016
March 1980	783	540	39,272	14,622	11,710	36,196	38,438	.....	.....	35,780	33,371	50,464
April 1980	665	538	39,115	14,676	11,648	35,386	38,688	.....	.....	35,785	33,571	50,247
May 1980	586	540	39,466	14,614	11,713	35,588	38,815	.....	.....	35,754	33,338	49,653
June 1980	398	559	39,601	14,546	11,696	35,967	38,931	.....	.....	35,637	33,346	49,501
July 1980	407	615	39,448	14,446	11,809	35,915	39,262	.....	.....	35,910	33,252	49,407
August 1980	435	615	39,550	14,321	11,674	35,753	39,361	.....	.....	35,400	33,114	49,028
September 1980	410	514	39,418	13,081	11,455	35,543	39,248	.....	.....	34,626	32,710	47,204
October 1980	412	470	37,466	12,560	11,242	35,784	39,228	.....	.....	33,430	32,624	47,133
November 1980	399	476	36,255	12,150	10,953	35,884	39,961	.....	.....	32,441	32,163	47,037
December 1980	403	501	36,091	12,092	9,857	36,081	39,875	.....	.....	31,914	31,900	46,910
January 1981	401	503	35,974	11,652	10,040	35,868	40,179	43	.....	32,044	31,800	47,088
February 1981	375	500	35,004	11,460	10,104	35,874	39,480	41	.....	31,772	31,752	47,040
March 1981	335	497	34,662	11,273	10,243	36,032	39,283	32	.....	31,844	31,819	46,937
April 1981	347	494	34,523	11,350	10,386	36,153	39,122	24	.....	31,984	31,773	46,812
May 1981	.....	554	34,786	11,494	11,296	36,311	39,068	25	.....	32,703	31,824	46,684
June 1981	.....	554	35,276	11,663	11,160	36,860	39,166	25	.....	32,795	32,114	46,024
July 1981	.....	589	35,661	11,754	11,484	36,967	39,137	27	.....	32,707	31,813	45,849
August 1981	.....	589	35,596	10,845	11,436	36,561	39,199	28	.....	32,555	31,625	45,604
September 1981	.....	404	34,608	10,796	11,485	35,881	38,805	.....	.....	31,954	30,416	45,266
October 1981	.....	.....	34,213	10,724	11,520	35,850	37,519	.....	.....	30,669	29,581	43,753
November 1981	.....	.....	34,109	10,667	11,112	35,779	37,429	.....	.....	29,927	29,329	42,768
December 1981	.....	.....	34,060	10,661	11,008	35,747	37,337	.....	.....	30,013	29,039	42,614

[1] Due to strike, operations were suspended for United from March 31, 1979 to May 28, 1979. Although United was on full strike, little if any change was made in the number of reported employees. This would appear to represent incorrect reporting.

[2] Effective February 1980, National Airlines data was included with Pan American for reporting purposes. For purposes of determining major contractions, National and Pan American data for 1979 and January 1980 have been combined.

[3] The carrier has not provided the Board with all its full-time employment data.

APPENDIX B.—MAJOR CONTRACTIONS

Carrier	Beginning of 12-month calculation period for major contraction	Occurrence of major contraction	Close cases for which additional information will be required	
			Beginning of 12-mo. calculation period for possible occurrence of major contraction	Possible occurrence of major contraction
Airlift International	(a) March 1979	(a) March 1980		
	(b) October 1979 through April 1980	(b) January 1980 through April 1981		
Air New England	(b) May 1979	(a) December 1979		
	(b) July 1979	(b) September 1979, January 1980 through July 1980.		
	(c) September 1979	(c) September 1980		
	(d) December 1979	(d) October 1980 through December 1980		
	(e) February 1980 through April 1980	(e) January 1981 and February 1981		
	(f) April 1980	(f) April 1981		
	(g) June 1980	(g) March 1981		
	(h) July 1980	(h) May 1981 and June 1981		
	(i) September 1980	(i) September 1981		
American	(a) December 1979 through October 1980	(a) November 1980 through October 1981	(a) November 1979	(a) November 1980.
Braniff	(a) september 1979 through December 1980	(a) September 1980 through December 1981		
Continental	(a) November 1979 through April 1980	(a) November 1980 through April 1981	(a) October 1979	(a) October 1980.
Eastern			(a) January 1981	(a) December 1981.
Mackey International	(a) January 1981	(a) March 1981 through Augusat 1981		
Pan Am	(a) November 1979 through August 1980	(a) November 1980 through August 1981	(a) October 1979	(a) October 1980.
	(b) October 1980	(b) October 1981		
	(c) May 1981	(c) November 1981 and December 1981		
TWA	(a) April 1979	(a) November 1979 through April 1980	(a) March 1979	(a) February 1980 or March 1980.
	(b) July 1979 through September 1979	(b) October 1979 through September 1980	(b) October 1979	(b) October 1980.
	(c) October 1980 through December 1980	(c) October 1981 through December 1981		
United	(a) September 1979 through January 1980	(a) September 1980 through January 1981		
	(b) November 1980 and December 1980	(b) November 1981 and December 1981		

Appendix C.—Estimated Periods of Eligibility for Protected Employees if Major Contractions are Determined To Be Qualifying Dislocations [1]

Airlift International: March 1979–April 1981 [2]

Air New England: May 1979–October 1981 [3]

American: December 1979–October 1981 (November 1979 is part of a close case)

Braniff: September 1979–December 1981

Continental: November 1979–April 1981 (October 1979 is part of a close case)

Eastern: The period from January 1981–December 1981 is a close case

Mackey International: March 1981–August 1981 [4]

Pan American: November 1979–December 1981 (October 1979 is part of a close case)

TWA: April 1979–December 1981 (March 1979 is part of a close case)

United: September 1979–December 1981

[1] Each qualifying dislocation determination will ordinarily be good for 12 months. Therefore, if a major contraction is found for any period within the 12 months after a month for which there was a qualifying dislocation determination, that major contraction would also be announced as being a qualifying dislocation, *i.e.*, we would not embark on a full investigation to identify its major cause. It will then be the Department of Labor's responsibility to determine whether an individual employee was an eligible protected employee as set forth in section 43(a)(1) of the Deregulation Act.

[2] We do not have employment information after April 1981.

[3] We do not have complete employment data concerning this carrier. In addition, a skeleton crew may have been retained for a short period of time following the cessation of operations on October 31, 1981. Those employees, if subsequently furloughed, may also be eligible for assistance.

[4] We do not have employment information for 1979, 1980 or after August 1981.

[FR Doc. 82-14352 Filed 5-25-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40580]

Samoa, Inc. d/b/a Samoa Airlines, Inc., Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on June 17, 1982, at 10:00 a.m. (local time) in Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., May 20, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-14351 Filed 5-25-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Nevada Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m., on June 23, 1982, at the Clark County Board of Education, 2832 East Flamingo Road, in the Board Room, Las Vegas, Nevada, 89121. The purpose of this meeting is to conduct a public meeting to obtain information on major civil rights issues in the State of Nevada in 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Woodrow Wilson, 625 Frederick Avenue, Las Vegas, Nevada, 89106, (702) 565–8910 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California, 90010, (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 21, 1982.

John I. Binkley,

Advisory Committee Management Office.

[FR Doc. 82-14316 Filed 5-25-82; 8:45 am]

BILLING CODE 6335-01-M

Nevada Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 5:00 p.m., on June 24, 1982, at the Federal Building, 200 Booth Street, in Room 4002, Reno, Nevada, 89509. The purpose of this meeting is to conduct a public meeting to obtain information on the major civil rights issues in the State of Nevada in 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Woodrow Wilson, 625

Frederick Avenue, Las Vegas, Nevada, 89106, (702) 565–8910 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California, 90010, (213) 688–3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 21, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82–14317 Filed 5–25–82; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[Order No. 41–3, Amdt. 1; D.O.O. Reference 10–3, 40–1]

Assistant Secretary for International Economic Policy; Organization and Function

Effective Date: May 3, 1982.

Organization and function Order 41–3 of February 15, 1962 (47 FR 16815) is amended to consolidate divisions in the Office of the European Community and eliminate divisions in the Offices of Japan and the Pacific Basin.

1. Part IV, Sections 3.02 and 3.03 are amended to read:

".02 The Director directs the following divisions:

a. European Community Countries Division; and

b. European Community Policy Division.

.03 The European Community Countries Division is responsible for the individual countries in the European Community."

2. Part VI, Sections 4.02 and 4.03 and the last sentence of Section 4.01 are deleted.

3. Part VI, Sections 5.02 and 5.03 are deleted.

4. The attached organization chart (Exhibit 1) and listing of country responsibilities (Exhibit 2)[1] supersede the exhibits attached to Organization and Function Order 41–3 of February 15, 1982.

Approved:

Lionel H. Olmer,

Under Secretary for International Trade.

Raymond J. Waldmann,

Assistant Secretary for International Economic Policy.

[FR Doc. 82–14260 Filed 5–25–82; 8:45 am]

BILLING CODE 3510–25–M

[1] Both the chart and the listing of country responsibilities are filed with the original document.

[Order No. 41–2; D.O.O. References 10–3, 40–1]

Deputy Under Secretary for International Trade

Effective: March 31, 1982.

Part I. Effect on Other Orders

This order supersedes ITA Organization and Function Order 41–2 of June 19, 1981 (46 FR 38557).

Part II. Purpose, Scope and Principal Organization

Section 1. Purpose

This order delegates authority to the Director of Administration and prescribes the organization and assignment of functions within the organizational elements reporting to the Deputy Under Secretary for International Trade (the "Deputy Under Secretary").

Section 2. Organization and Line of Authority

The internal organization structure and line of authority for functions prescribed in this order is depicted in the attached chart.[1] The Deputy Under Secretary for International Trade reports and is responsible to the Under Secretary for International Trade.

Section 3. Principal Functions

.01 The *Deputy Under Secretary for International Trade* serves as the principal deputy to the Under Secretary, performs such duties as the Under Secretary assigns, and performs the functions of the Under Secretary in the latter's absence. The Deputy Under Secretary is responsible for the day-to-day management of ITA.

.02 The Deputy Under Secretary directs the activities of the Director of Administration.

Part III. Director of Administration

Section 1. Delegation of Authority

.01 Subject to such policies, directives, and delegations of authority as may be issued by the Secretary, the Under Secretary for International Trade, and by the Deputy Under Secretary for International Trade, and in accordance with applicable Department Organization Orders and Department Administrative Orders, the Director of Administration is hereby delegated the authorities of the Deputy Under Secretary as necessary to provide for administrative management and public affairs activities for ITA.

.02 The Director of Administration may redelegate this authority to any employee subject to such conditions in the exercise of such authority as may be prescribed.

[1] Filed as part of the original document.

Section 2. Organization and Functions

.01 The *Director of Administration* is the principal advisor to the Under Secretary and the Deputy Under Secretary on administrative and management policy, and coordinates ITA administrative matters with the Assistant Secretary for Administration, the Inspector General and other Department officials.

.02 The Office of the Director includes the *Information Projects Staff* which operates an ITA-wide test processing facility, including support and training of users; manages text processing and telecommunications user groups; maintains liaison with the Department's Communication Center; resolves communication center user problems; manages the acquisition of text processing and microform equipment; manages the development of an Administrative Management Information System; plans for office automation; maintains liaison with the Office of the Assistant Secretary for Administration for development and administration of service agreements on Working Capital Fund projects; and coordinates ITA participation in the Secretarial MBO process.

.03 The Director of Administration directs the following offices:

a. Office of Personnel;

b. Office of Management and Systems;

c. Office of Budget;

d. Office of Public Affairs; and

e. Office of Administrative Support.

Section 3. Office of Personnel

.01 The *Office of Personnel* is headed by a *Director* who is the ITA Personnel Officer and who plans, coordinates and conducts the Personnel Management Program for ITA; interprets personnel policies and procedures established by higher authority; and acts as liaison with the Department's Office of Personnel.

a. The immediate office of the Director includes the *Special Programs Staff* which develops the policies, directives, and operating instructions necessary to implement personnel management activities in ITA; provides technical guidance and assistance to program areas and to other units within the Office of Personnel regarding the interpretation or impact of Federal personnel statutes, regulations and Comptroller General decisions; provides technical guidance and assistance to the Personnel Management Division on position classification and employee

relations issues to unusual complexity; plans and implements special employment programs, including employment of the handicapped, cooperative education, affirmative action, equal employment opportunity complaints, and upward mobility; processes financial disclosure statements required under the Ethics in Government Act and other conflict-of-interest regulations; in coordination with the Personnel Management Division, administers reductions-in-force; serves as liaison between the ITA Office of Personnel and the Department's Office of Personnel on matters pertaining to Senior Executive Service and Schedule C positions; and in coordination with the Personnel Management Division, is responsible for the position classification survey program.

b. The immediate office of the Director includes the *Information Systems Staff* which plans and coordinates matters relating to the development of ITA–wide personnel management information systems and procedures, including records and reports; processes all personnel actions, ensures proper documentation for legality and propriety and maintains control over the content and disposition of Official Personnel Folders; coordinates with ADP personnel concerning processing and records documentation, improvements, or needs relating to personnel management and administration; provides ADP input necessary to generate SF–113 reports and a variety of statistical, personnel and employee information reports; provides advice and assistance to serviced organizations concerning employment benefits and entitlements, such as health plans and insurance programs; arranges for National Agency checks by the Office of Personnel Management and processes employee security clearance; conducts the ITA security program; provides physical and document security orientation for employees and security briefings; maintains NATO sub-registry for Commerce; controls credentials, building passes and keys; performs the safety function for ITA; and provides paymaster services.

c. The Director directs the following organizational components:

.02 The *Personnel Management Division*, organized into teams corresponding to the major organization elements of ITA, provides a full range of sevices in the areas of recruitment, staffing, merit promotion, position management and classification, and pay determinations; advises and provides assistance regarding reorganizations, reductions-in-force, employee utilization, employee relations, adverse actions, appeals and grievances; provides retirement counseling and services involving workers' compensation claims; and serves as a liaison and primary point of contact between program areas and other units of the Office of Personnel on matters involving training, awards, and special employment programs.

.03 The *Career Development Division* is responsible for a comprehensive employee development, training and awards program encompassing supervisory, management, and executive development and the identification of training and orientation needs for employees at all grade levels; manages the incentive awards program, which includes both monetary and honorary recognition; administer systems for employee appraisals, performance and career counseling, in coordination with the appropriate team leader of the Personnel Management Division; provides administrative and technical support to the Executive Resource and Performance Review Boards; and administers the Intergovernmental Personnel Act and various other programs such as the President's Executive Exchange Program.

Section 4. Office of Management and Systems

.01 The *Office of Management and Systems* is headed by a *Director* who plans, coordinates and directs management, systems and information resource management programs for ITA; acts as liaison with the Department's Office of Information Management, the Office of Organization and Management Systems, the Office of Program Evaluation and the Office of the Inspector General; and directs the following organizational components:

.02 The *Systems Management Division* coordinates and directs the planning and evaluation of ITA information resource systems; provides management coordination and control and technical guidance to ITA elements with regard to systems engineering, data communications, data processing, data retrieval and acquisition of ADP resources; coordinates the establishment of standards and production schedules and the maintenance for operational automated systems; maintains operational support for selected automated systems; coordinates the preparation and submission of ADP planning, budgeting and evaluation information for automated systems; implements the information resource management policies and procedures of ITA, the Department and other Federal agencies; and is the point-of-contact within ITA for all information management technology questions, administrative reports and consultations.

.03 The *Management Analysis Division* conduct studies and surveys to effect improve management practices, manpower distribution organization alignments, procedures and work methods; reviews and coordinates proposed organizational changes; administers the forms management and reports management programs; performs correspondence management, including training in correspondence procedures and operation of the ITA Secretariat; receives, reviews and assigns for action Secretarial, Congressional and White House mail directed to ITA, and follows-up to ensure timely response; provides assistance on established correspondence procedures and reviews outgoing correspondence for proper format and compliance with established procedures; provides committee management and records management services; in cooperation with ITA's Office of Personnel and Offfice of Budget, operates the position management program; maintains a system for the issuance of Announcements, Administrative Instructions, Organization and Functions Orders, Delegations of Authority and other issuances prepared for the administration of ITA; coordinates the administration of the Freedom of Information Act and the Privacy Act; and provides liaison for GAO and Inspector General audit reports, surveys and inquiries.

Section 5. Office of Budget

.01 The *Office of Budget* is headed by a *Director* who is the ITA Budget Officer and who plans, coordinates and directs budget functions for ITA; serves as ITA's principal contact with the Department, OMB, the Budget and Appropriations Committees of the Congress, and other government agencies on budget and related matters, and directs the following organizational components:

.02 The *Budget Operations Division* coordinates the development of advance program guidance and plans for resource allocation, including identification of major issues to be addressed in budget proposals; examines and analyzes budget proposals in terms of effective allocation of ITA resources, conformance to policies, adequancy of justification, existence of statutory authorization, feasibility and economy of operations,

and conformity with instructions governing submission of budget estimates, out-year plans, and impacts; participates in the development of legislative proposals affecting ITA's plans and programs and reviews legislative proposals to assess budgetary impact; reviews and comments on proposed testimony of officials of ITA on plans and programs; provides technical assistance to ITA officials on budget matters; prepares Preview Estimates and Secretarial, OMB, and Congressional budget justifications; prepares witnesses to testify on budget requests and completes materials for hearing transcripts; analyzes fiscal and program plans and reprogramming proposals for conformance to ITA and Departmental policies and commitments, and reviews the status of obligations, expenditures and program progress by organization and budget structure; reviews and evaluates ITA program budget structure and recommends modifications as necessary; prepares overseas direct project budget authorizations and advice of funds availability; negotiates and prepares reimbursable agreements; assists program managers in developing operating budgets; and prepares special reports or briefings for the Under Secretary and other Secretarial Officers on significant fiscal, budget and program issues, incorporating material furnished by the Financial Management Division.

.03 The *Financial Management Division* establishes standards, criteria and procedures for preparing budget estimates and justifications and develops standards, procedures and operational instructions for resource allocation systems in ITA; prepares technical and other supporting schedules and reviews such schedules for consistency with budget justifications and Departmental and OMB instructions governing submission of budget estimates; maintains information on the status of Congressional actions on ITA's appropriation; prepares budget summaries and analyses; maintains ITA's budget history; maintains liaison, as appropriate, with OMB staff and with staffs of Budget and Appropriations Committees on technical budget matters as necessary to carry out the Divisions' responsibilities; coordinates the establishment of reporting requirements on program accomplishments and operating budgets, including monthly and quarterly plans and reports, and analyzes, consolidates or otherwise treats the reports as will best meet the needs of the Under Secretary, other Secretarial Officers, the Departmental Office of Budget and Congress, incorporating material furnished by the Budget Operations Division; prepares special reports or briefings for the Under Secretary and other Secretarial Officers on significant fiscal, budget and program issues, incorporating material furnished by the Budget Operations Division; examines and recommends appropriate action on apportionment requests; maintains control numbers on outlay estimates and employment ceilings, including Monitoring Overseas Direct Employment (MODE) ceiling; assures administrative control over the obligation and expenditure of ITA appropriative and other funds; maintains multi-year plans, ceilings, and estimates; represents ITA on the Foreign Affairs Administrative Support (FAAS) Council Working Group at the Department of State; represents ITA on the Department's Working Capital Fund Advisory Group; maintains ITA Reimbursable, Gifts and Bequests, Domestic Hospitality, and Special Foreign Currency accounts; maintains ITA Centralized Services programs; maintains Full-Time Equivalency ceiling control system; maintains up-to-date listing of appropriate statutory authorizations and appropriation language code citations, including explanation of such code citations; prepares consolidation reports as necessary, such as Federal Domestic Assistance and Legislative, Authorization, Budget and Program Information Systems (LAPIS) reports; and maintains liaison with the Department's Controller on all accounting matters.

Section 6. Office of Public Affairs

.01 The *Office of Public Affairs* is headed by a *Director* who furnishes public information and publications services to ITA elements and directs the following organizational components:

.02 The *Business America Staff* is located in the immediate Office of the Director and prepares and publishes *Business America* magazine.

.03 The *Public Information Division* develops, prepares, clears and releases press releases; develops and produces audio visual information material intended for public consumption, including slide presentations, motion pictures, television productions, audio (cassette) presentations, exhibit displays, advertising material (radio-TV-print), and scripts, drafts, speeches, public statements, and messages for the President, the Secretary of Commerce and ITA officials; writes articles for signature by Department officials and for publications in national press and journals; develops questions and answers and briefing and background papers for Presidential and Secretarial news conferences and other purposes; arranges news conferences for Departmental officials; develops speaking forums for ITA officials designed to support Departmental and Administration objectives; writes and distributes a newsletter for ITA District Offices; performs editorial services including research and editorial assistance in the preparation and publication of technical articles; maintains mailing lists, biographical data, business information and other reference material; and reviews the speeches of ITA officials for public affairs purposes, primarily the generation of publicity.

.04 The *Publications Division* assists in the development of ITA publications, including gathering of material, writing, editing and preparation for printing; promotes ITA publications; prepares and arranges for placement of display and advertising for ITA promotional events in the U.S. and abroad; and maintains liaison with the Department's Office of Information Services and the Government Printing Office and with other Government agencies concerned with ITA reports and publications. The Division Director serves as publication clearance officer for ITA.

Section 7. Office of Administrative Support

.01 The *Office of Administrative Support* is headed by a *Director* who plans and directs administrative support services for ITA; receives and processes procurement requests for furniture, furnishings, office equipment, office supplies, subscriptions, publications and printing; arranges for the repair and renovation of office equipment and furniture; vouchers all transactions to insure that the terms of purchases and contracts are fully met; maintains current inventories of office equipment and other property; monitors the use of office equipment and furniture and reviews requests for procurement of new items to insure that items are not otherwise available or underutilized; maintains a current inventory of ITA-assigned office and special-use space; monitors GSA SLUC billings to insure that charges are accurate and inaccuracies are corrected; reviews and analyzes office space utilization to insure conformity to Department and GSA guidelines; develops plans for space assignments in anticipation of changes in requirements; prepares work specifications for renovations, alterations, and telephone and electrical services; monitors contract work to

insure that standards of quality are met, work is performed within agreed timeframes, and costs do not exceed estimates; provides office design services and monitors office design and layout work performed by private design firms; reviews office space and recommends approaches to improve the physical surroundings and work environment of ITA employees; provides for the distribution of bulk materials and special messenger service; and monitors ITA mailing practices to insure that appropriate laws, rules, regulations, and guidelines are adhered to.

Lionel Olmer,

Under Secretary for International Trade.

[FR Doc. 82-14261 Filed 5-25-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Pipes and Tubes From Japan; Postponement of Preliminary Antidumping Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of preliminary antidumping determination.

SUMMARY: The antidumping preliminary determination involving certain steel pipes and tubes from Japan is being postponed, as the investigation is determined to be extraordinarily complicated. We intend to issue the antidumping preliminary determination not later than August 18, 1982.

EFFECTIVE DATE: May 26, 1982.

FOR FURTHER INFORMATION CONTACT: Stuart Keitz or Koichi Beckwith, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202-377-1769 or 1778).

SUPPLEMENTARY INFORMATION: On February 12, 1982, we announced our initiation of an antidumping investigation to determine whether imports of certain steel pipes and tubes from Japan are being, or are likely to be, sold at less than fair value (47 FR 6457). The notice stated that we would issue a preliminary determination by June 29, 1982.

Three of the four respondents: Sumitomo Metal Industries, Ltd., Sanyo Special Steel Co. Ltd., and Kobe Steel, Ltd., requested an extension of time for response in letters dated March 16, 1982, March 31, 1982, and April 1, 1982, respectively. The manufacturers requested additional time in responding due to the great number of product categories and consequent volume of information. We granted their requests and required them to respond to the questionnaires by April 19, 1982. The fourth firm, Nippon Kokan, K.K. did not request an extension.

We have determined that the parties involved are cooperating, but that additional time is necessary for analysis of the complex and massive information from the four manufacturers and their related parties. The information which we must analyze concerns sales of a large variety of custom-made and standard items. It includes data requested from related parties and responses to the allegation that sales in the home market are being made at less than the cost of production.

For these reasons we determine that the case is extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended ("the Act"), and we intend to issue an antidumping preliminary determination not later than August 18, 1982.

(Section 733(c)(2) of the Act (93 Stat. 164, 19 U.S.C. 1673b(c)(2)))

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 20, 1982.

[FR Doc. 82-14325 Filed 5-25-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Receipt of Modification Request for Eleanor M. Dorsey

Notice is hereby given that Eleanor M. Dorsey, Friday Harbor Laboratories, P.O. Box 459, Friday Harbor, Washington 98250 has requested a modification of Permit No. 295 issued on June 19, 1980 (45 FR 42784) under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The Permit Holder is requesting to radio tag 60 minke whales (*Balaenoptera acutorostrata*) and collect skin biopsies from up to 50 minke whales over the next 4 years in addition to the activities authorized in the Permit. The activities are to be conducted in the waters of northern Washington.

Concurrent with the publication of this Notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before June 25, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in the modifications request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modifications request are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115.

Dated: May 20, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-14353 Filed 5-25-82; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Receipt of Application for Permit; Tel-Aviv Dolphinarium, Ltd.

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Tel-Aviv Dolphinarium, Ltd. (P255A), Charles Clore Park, Herbert Samuel Blvd.

b. Address: P.O. Box 29131, Tel-Aviv 61290 Israel.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Bottlenose dolphin *(Tursiops truncatus)* 6.

4. Type of Take: To capture and maintain for public display in Tel-Aviv.

5. Location of Activity: Florida West Coast, Charlotte Harbor to Crystal River.

6. Period of Activity: 24 months.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian,

who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the Federal Register, the Secretry of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application will be considered unless:

(a) It is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the appropriate agency of the foreign government;

(b) It includes:

i. A certification from such appropriate government agency verifying the information set forth in the application;

ii. A certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. A statement that the government concerned will afford comity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Ministry of Agriculture Veterinary Service & Animal Health of Israel have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: May 20, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-14355 Filed 5-25-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Levels for Certain Cotton and Man-Made Fiber Textile Products from the Dominican Republic, Effective on June 1, 1982

May 21, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period beginning on June 1, 1982.

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic established specific levels of restraints for Categories 340 (men's and boys' woven cotton shirts), 351 (cotton nightwear), 639 (women's girls', and infants man-made fiber knit skirts and blouses), and 649 (man-made fiber brassieres and other body supporting garments) during the agreement year which begins on June 1, 1982 and extends through May 31, 1983. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, under the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the foregoing categories, produced, or manufactured in the Dominican Republic and exported during the twelve-month period which begins on June 1, 1982 and extends through May 31, 1983, in excess of the designated levels of restraint.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926) May 5, 1981 (46 FR 25121), and May 13, 1982 (47 FR 20654)).

EFFECTIVE DATE: June 1, 1982.

FOR FURTHER INFORMATION CONTACT:

Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

May 21, 1982.

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilaternal Cotton, Wool, and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 1, 1982 and for the twelve-month period extending through May 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 340, 351, 639, and 649, produced or manufactured in the Dominican Republic, in excess of the following levels of restraint:

Category	12-mo. level of restraint (in dozens)
340	149,455
351	346,858
639	336,887
649	1,500,000

In carrying out this directive entries of textile products in the foregoing categories, produced or manufactured in the Dominican Republic, which have been exported to the United States on and after June 1, 1981, and extending through May 31, 1982, shall, to the extent of any unfilled balances, be charged

against the levels of restraint established for such goods during the twelve-month period beginning on June 1, 1981 and extending through May 31, 1982. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic which provide, in part, that: (1) Specific limits may be exceeded by designated percentages to account for swing; (2) specific limits may also be increased for carryover up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926) and May 13, 1982 (47 FR 20654).

In carrying out the above directions, the Commissioner of Customs should construe entry in the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Dominican Republic and with respect to imports of cotton and man-made fiber textile products from the Dominican Republic have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-14301 Filed 5-25-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on International Industry-to-Industry Armaments Cooperation; Change in Notice of Advisory Committee Meeting

The purpose of the meeting of the Defense Science Board Task Force on International Industry to Industry Armaments Cooperation scheduled for 3–4 June 1982 as published in the **Federal Register** (Vol. 47, No. 88, Thursday, May 6, 1982, FR Doc. 82-12362) should read as follows:

"The Task Force will review the Defense Department's policies, plans and procedures which impede or might impede international arms cooperation and thereby have the potential for adversely impacting the collective security of the United States, its friends and Allies. In this context, the Task Force will also analyze the effect current international cooperation policies have on the *ability* of the U.S., its friends and Allies to achieve in good order and sustain mobilization capacities."

The original notice erroneously gave the above italicized "ability" as "utility." In all other respects, the original notice cited above remains the same.

M.S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 21,1982.

[FR Doc. 82-14347 Filed 5-25-82; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee meeting

Working Group A (Mainly Microware Devices) of the DOD Advisory Group on Electronic Devices (AGED) will meet in closed session on 9 June 1982 at the AF Rome Air Development Center, Building 106, Rm. 4119, Rome, New York, 13441.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the military propose to initate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include classified program details throughout.

In accordance with 5 U.S.C. App 1, section 10(d) (1976); it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552(b) (c)(1) (1976), and that accordingly, this meeting will be closed to the public.

May 20, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-14312 Filed 5-25-82; 8:45 am]

BILLING CODE 3810-01-M

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electronic Devices (AGED) will meet in closed session 6 July at ONR—800 No. Quincy St., Arlington, Va. 22217 and 7 July at AGED, 1925 North Lynn St., Arlington, Va. 22209.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with 5 U.S.C. App. 1, section 10(d) (1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

May 20, 1982.

[FR Doc. 82-14313 Filed 5-25-82; 8:45 am]

BILLING CODE 3810-01-M

Organization of the Joint Chiefs of Staff; Joint Strategic Target Planning Staff Scientific Advisory Group; Closed Meeting

The Joint Strategic Target Planning Staff (JSTPS) Scientific Advisory Group will meet in closed session August 9–11, 1982 at Offutt Air Force Base, Nebraska.

The mission of the JSTPS Scientific Advisory Group is to provide timely

technical and scientific advicxe to the Director of Strategic Target Planning during the Development of the Single Integrated Operational Plan.

A meeting of the JSTPS Scientific Advisory Group has been scheduled for August 9–11, 1982 to discuss classified issues of strategic concern related to development of future Single Integrated Operational Plans. This meeting is being held in lieu of the meeting scheduled for 10–12 May 1982, which was cancelled.

In accordance with 5 U.S.C. App. I, subsection 10(d) (1976), it has been determined that this JSTPS Scientific Advisory Group Meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

May 20, 1982.

[FR Doc. 82-14311 Filed 5-25-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Title I, Elementary and Secondary Education Act; Intent To Repay to the District of Columbia Public Schools Funds Recovered as a Result of a Final Audit Determination

AGENCY: Education Department.

ACTION: Notice of Intent to award grantback funds.

SUMMARY: Notice is given that, under section 456 of the General Education Provisions Act, the U.S. Secretary of Education intends to repay under a grantback arrangement to the District of Columbia Public Schools (SEA) an amount equal to 75 percent of the funds the U.S. Department of Education will recover as a result of a final audit determination issued on October 24, 1979 by the Deputy Commissioner for Elementary and Secondary Education (now Assistant Secretary for Elementary and Secondary Education). This notice describes the SEA's plan for the use of the repaid funds and the terms and conditions under which the Secretary intends to make these funds available.

DATE: All written comments must be received on or before June 25, 1982.

ADDRESS: All written comments should be submitted to James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, S.W., (Room 3636, ROB–3), Washington, D.C. 20202–3305.

FOR FURTHER INFORMATION CONTACT: James Spillane. Telephone: (202) 245–9877.

SUPPLEMENTARY INFORMATION:

A. Background

On October 24, 1979, the Deputy Commissioner for Elementary and Secondary Education (now Assistant Secretary for Elementary and Secondary Education) issued a final audit determination against the District of Columbia Public Schools (SEA), finding that the SEA had improperly spent or retained $1,001,753 in funds provided under Title I of the Elementary and Secondary Education Act of 1965 (Title I). This final audit determination was based on an audit of the Title I program in the SEA for the period July 1, 1973 through September 30, 1977 conducted by the Department of Health, Education, and Welfare Audit Agency. The audit focused primarily on the procedures used by the SEA to control grant expenditures, and the SEA's failure to expend Title I funds within the allowable two-year period for grant expenditures.

In his final audit determination, the Deputy Commissioner acknowledged that the SEA had already repaid to the U.S. Office of Education (now U.S. Department of Education) $416,019.21 in partial settlement of the claim. Accordingly, he determined that the SEA owned $585,733.79. The SEA challenged this determination in an application for review filed with the Education Appeal Board (EAB) on November 26, 1979 pursuant to the authority in Secton 452(b) of the General Education Provisions Act (GEPA) (20 U.S.C. 1234a(b)). The SEA's application for review is currently pending before the EAB.

While the SEA's application for review was pending, the parties in this case negotiated a tentative settlement of the outstanding claim. Under this agreement, the SEA would repay an additional $100,000 in non-federal funds, resulting in a total repayment by the SEA of $516,019.21. Upon receipt of the SEA's additional payment, the U.S. Department of Education (Department) would relinquish any further claims relating to the final audit determination. In addition, the U.S. Secretary of Education (Secretary) would repay to the SEA an amount equal to 75 percent of the recovered funds in accordance with the grantback provision in section 456 of GEPA.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA (20 U.S.C.1234e(a)) provides that, whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for that program and may arrange to repay to the SEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that (1) the practices and procedures of the SEA that resulted in the audit determination have been corrected, and that the SEA is in all other respects in compliance with the requirements of the applicable program; (2) the SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the applicable program, and, to the extent possible, benefits the population that was affected by the misexpenditures that resulted in the audit exception; and (3) the funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the program under which the funds were originally granted.

C. Request for Repayment of Funds Awarded Under a Grantback Arrangement

As part of the proposed settlement agreement discussed above, the SEA has requested that the Secretary repay to the SEA an amount equal to 75 percent of the recovered funds. The SEA also has submitted documentation showing that it has corrected the inadequate accounting practices that caused the audit violation. In addition, the SEA has indicated that it will certify that it is currently in compliance with all requirements of law, whether by statute or regulation, that apply to the administration of its Title I program.

D. Plan for Use of Funds Awarded Under a Grantback Arrangement

In accordance with section 456(a)(2) of GEPA, the SEA has submitted a plan for how the SEA proposes to use the funds that would be repaid to it under the grantback arrangement. According to its plan, the SEA intends to use the grantback funds in the summer of 1982 to operate a Title I summer school program. This program is designed to raise the achievement level in reading, language arts, and mathematics of a selected group of Title I students in grades one through six.

The SEA proposes to select approximately three thousand eligible Title I students and assign them to ten educational centers throughout the District of Columbia. The staff for each center will include reading and math teachers, educational aides, program assistants, and several parents. In addition to providing instruction for those students selected to participate, the summer school program will serve as a model for a team approach to instructional services. Following completion of the program, the SEA proposes to evaluate the effectiveness of the program in terms of the instructional objectives that were achieved, and staff and student opinions of the program.

E. The Secretary's Determinations

Based upon a thorough review of the SEA's request for the repayment of funds under section 456 of GEPA, the proposed settlement agreement, the SEA's assurances described in Part C above, and the SEA's plan and budget, the Secretary makes the following determinations:

(1) The SEA has corrected the practices and procedures that resulted in the final audit determination and the SEA is in all other respects in compliance with the requirements of the Title I program;

(2) The SEA has submitted a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the Title I program and, to the extent possible, benefits the Title I children who were affected by the misexpenditures that resulted in the audit exception; and

(3) The funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purposes of the Title I program.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

F. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires, at least thirty days prior to entering into an arrangement to award funds under a grantback, that the Secretary publish in the **Federal Register** a notice of his intent to do so, and the terms and conditions under which the payment will be made.

In accordance with this requirement, notice is given that the Secretary intends to make available under a grantback arrangement to the SEA an amount equal to 75 percent of the funds the Department will recover as a result of the Deputy Commissioner's final audit determination. The Secretary bases his intention to enter into a grantback arrangement under section 456 of GEPA on his determinations outlined in Section E of this notice and the cooperative efforts of the SEA to comply with the proposed settlement agreement of which the grantback is a part.

G. Terms and Conditions Under Which Payment Under the Grantback Arrangement Will be Made

Section 456(b) of GEPA provides that any payments made under a grantback arrangement shall be subject to the terms and conditions that the Secretary deems necessary to accomplish the purposes of the affected program. The SEA agrees to comply with the following terms and conditions under which payment under the grantback arrangement will be made:

(1) The SEA will spend the funds awarded under the grantback in accordance with—

(a) All applicable statutory and regulatory requirements, including the requirements concerning the participation of eligible children attending private schools;

(b) The plan that the SEA submitted and any amendments to that plan that are approved by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved by the Secretary.

(2) In accordance with section 456(c) of GEPA and the SEA's plan, the SEA will obligate all funds received under the grantback arrangement no later than September 30, 1982.

(3) The SEA will maintain separate accounting records documenting the expenditure of funds awarded under the grantback arrangement.

Invitation to Comment

The Secretary invites public comments on this notice of intent to award funds under a grantback arrangement to the District of Columbia Public Schools. Interested persons may send written comments to James Spillane at the address at the beginning of this notice. All comments must be received on or before June 25, 1982.

Dated: May 17, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-14302 Filed 5-25-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between U.S. and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/EU(SW)-66, from Studsvik, Sweden to Mol, Belgium, 24 irradiated fuel rods containing 10.562 kilograms of uranium enriched to 4.8 percent in U-235, and 72 grams of plutonium. These rods are being returned to Belgium following tests performed in Sweden.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been detemined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice (June 10, 1982).

For the Department of Energy.
Dated: May 20, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-14303 Filed 5-25-82; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement Between U.S. and European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government

of Switzerland Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the following retransfer: RTD/SD(EU)–40, from the Federal Republic of Germany to Switzerland, three irradiated fuel rods containing 600 grams of uranium enriched to 92 percent in U–235, 32 grams of natural uranium, and 103 grams of plutonium for post-irradiation tests. It is proposed that these fuel rods will subsequently be returned to the Federal Republic of Germany for further testing and ultimate disposition.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice (June 10, 1982).

Dated: May 20, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–14304 Filed 5–25–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of 10 CFR Part 210 and Part 212, Subpart D.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Sandra K. Webb, Department of Energy, 333 Market Street, San Francisco, California 94105, phone (415) 974–7104. On or before June 10, 1982 any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Department of Energy, Room 3304, 12th and Pennsylvania, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in San Francisco, CA., on the 22nd day of April 1982.

Sandra K. Webb,

Economic Regulatory Administration.

PROPOSED REMEDIAL ORDERS

Station	Address	Date	Violation amount	Highest cents per gallon violation
Cabrillo Arco	5955 Soquel Drive, Soquel, CA 95073	4/15/82	$2,471.59	3.9
Walt Freeman Chevron	8099 Folsom Blvd., Sacramento, CA	4/15/82	10,912.51	9.2
Roy's Civic Center Mobil	1271 N. First St., San Jose, CA 95112	4/15/82	1,381.14	5.9
Robert J. Heald Shell	110 Belvedere, San Rafael, CA 94901	4/15/82	3,902.08	8.2
Bob's Chevron	805 Ocean Street, Santa Cruz, CA	4/14/82	17,161.23	11.7
Car Wash Service	15526 Hesperian Blvd., San Lorenzo, CA 94580.	4/15/82	21,393.68	9.8
Clean Machine, Inc.	1300 Travis Blvd., Fairfield, CA 94533	4/15/82	7,812.63	8.1
Clean Machine, Inc.	2701 Strory Road, San Jose, CA 95127	4/15/82	16,897.13	10.7
St. Francis Texaco	164 Calistoga Rd., Santa Rosa, CA 95405	4/15/82	6,514.20	12.2
Cascade Chevron	1490 W. Winton Ave., Hayward, CA 94544	4/15/82	1,535.53	5.5

[FR Doc. 82–14235 Filed 5–25–82; 8:45 am]

BILLING CODE 6450–01–M

Proposed Consent Order With Williams Exploration Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed consent order and opportunity for public comment.

SUMMARY: The Office of the Special Counsel (OSC) hereby gives the notice required by 10 CFR 205.199J that it has entered into a Consent Order with Williams Exploration Company ("Williams Exploration"). The Consent Order resolves certain issues of compliance with the DOE Petroleum Price Regulations for the period June 1, 1979 through January 27, 1981, when crude oil and petroleum products were decontrolled by Executive Order 12287, 46 FR 9909 (January 30, 1981). To remedy any violations that may have occurred during the period, Williams Exploration has agreed to make a cash payment of $13,000,000.

As required by the regulation cited above, OSC will receive comments on the Consent Order for a period of not less than 30 days following publication of this notice. OSC will consider any comments received before determining whether to make the Consent Order final. Although the Consent Order, has been signed and accepted by the parties, the OSC may, after the expiration of the comment period, withdraw its acceptance of the Consent Order, attempt to obtain a modification of the Consent Order or, if appropriate, issue the Consent Order as proposed.

COMMENTS: To be considered, comments must be received by 5:00 p.m. on the thirtieth day following publication of this notice, June 25, 1982.

Address comments to: Williams Exploration Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 5109, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor, Economic Regulatory Administration, Department of Energy, 1200 Pennsylvania Avenue, NW., Room 3115, Washington, D.C. 20461, Phone: (202) 633–9165.

Copies of the Consent Order may be received free of charge by written request to: Williams Exploration Consent Order Comments, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, Room 1E–190, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: Williams Exploration is a producer and marketer of domestic crude oil and is subject to the DOE Petroleum Price Regulations (Regulations). An audit conducted by DOE of Williams Exploration included a review of Williams Exploration's records relating to compliance with the Regulations during the period June 1, 1979 through January 27, 1981 (the audit period). During the audit, questions and issues were raised. This Consent Order resolves the civil issues concerning newly discovered crude oil certification matters of the T. E. Mudd #1 and Blonstein Estate #1 leases for the period covered by the Consent Order.

Conclusion of DOE Audit

The Consent Order addresses Williams Exploration's compliance with the applicable Regulations. DOE's audit reviewed Williams Exploration's pricing policies and procedures and the manner in which Williams Exploration applied the Regulations with respect to its production and marketing of newly discovered crude oil from certain properties.

At the conclusion of the audit, DOE alleged that Williams Exploration sold crude oil at prices in excess of the applicable ceiling prices. Notwithstanding DOE's position to the contrary, Williams Exploration maintains that it has correctly construed and applied the Regulations and that crude oil was not sold at prices in excess of the applicable ceiling prices. The parties desire, however, to resolve the issues raised without resort to complex, lengthy and expensive compliance actions. DOE believes that the terms and conditions of this Consent Order provide a satisfactory resolution of disputed issues and, thus, that the Consent Order is in the public interest.

Terms and Conditions of the Consent Order

To remedy any violations that may have occurred during the audit period, Williams Exploration has agreed to the following:

Within thirty (30) days after the effective date of this Consent Order, Williams Exploration shall remit thirteen million dollars ($13,000,000) for future disposition by DOE.

The Consent Order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the Consent Order. Among other things, DOE reserves the right to initiate enforcement proceedings and to seek appropriate penalties upon the discovery of information which is materially inconsistent with the information upon which this Consent Order is based.

Upon becoming final after consideration of public comments, the Order will be a final order of DOE to which Williams Exploration has waived its right to administrative or judicial review.

Submission of Written Comments

Interested persons are invited to submit written comments concerning this Consent Order to the address noted above. All comments received by 5:00 p.m. on the thirtieth day following publication of this notice will be considered by DOE before determining whether to adopt the Consent Order as a final order. Any modifications to the Consent Order that, in the opinion of DOE, significantly change the terms or impact of the Consent Order will be published for comment. After consideration of public comments by DOE, the Consent Order will be made final and effective by publication of notice to that effect in the Federal Register.

Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures of 10 CFR 205.9(f).

Issued in Washington, D.C. May 21, 1982.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 82-14372 Filed 5-25-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. EL81-14-000 and ER81-353-000]

American Municipal Power, Ohio, Inc. and the City of St. Marys, Ohio v. The Dayton Power & Light Co., Dayton Power & Light Co.; Order Granting Intervention, Denying Motion To Dismiss Complaint, Finding That Power Delivery Agreement Requires Transmission Service, and Directing Refunds

Issued: May 19, 1982.

This proceeding involves a complaint filed by American Municipal Power-Ohio, Inc. (AMP-Ohio), which is a member of the Buckeye Member Cooperative, Inc. (BMCI), and the City of St. Marys, Ohio (St. Marys) against Dayton Power & Light Company (DP&L). The primary controversy is whether the terms of a Power Delivery Agreement, to which DP&L and Buckeye Power Incorporated (Buckeye) are parties, requires DP&L to wheel Buckeye power to a new delivery point serving St. Marys.

Background

Buckeye is a non-profit electric generation cooperative which provides wholesale service to its twenty-seven member cooperatives over the transmission lines of Ohio Power Company, and several other investor-owned utilities. Under an arrangement known as the "Buckeye Project," a group of Ohio rural electric cooperatives joined together to buy capacity in an electric generating plant. Six investor-owned utilities contracted, under the terms of a Power Delivery Agreement, to wheel power from this plant to various cooperative points of delivery.[1]

The rate under this Agreement is based solely on the Buckeye system annual peak demand. Therefore, although the collective load factor for the cooperatives began to decrease, the delivery rate remained the same. In order to improve their load factor and reduce average costs for all their customers, the cooperatives have attempted to sell off-peak power from their plant. Two of the customers to whom the cooperatives attempted to sell off-peak power were the Cities of Hamilton, Ohio (Hamilton), and St. Marys, Ohio.

The Prior Buckeye Complaint

In Docket No. EL79-20, Buckeye filed a complaint alleging that Cincinnati Gas & Electric Company (CG&E) had violated the terms of the Buckeye Power Delivery Agreement by refusing to establish a new delivery point that would enable a Buckeye member cooperative (BMCI) to supply power and energy to Hamilton under an agreement between Hamilton, BMCI, and Amp-Ohio. CG&E refused to provide the delivery point and transmission service on the grounds that the contractual requirements of the Agreement for transmission and delivery had not been met and that Hamilton was not the kind of customer intended to come within the scope of the Agreement by the parties at the time it was executed. A hearing was held and an Initial Decision found that Hamilton was a type of customer within the scope of the Agreement, but that one of the contractual requirements had not been met, *i.e.*, that BMCI was not a legitimate member of Buckeye. On January 25, 1982, the Commission affirmed the finding that Hamilton was an appropriate type of customer but reversed the finding that BMCI was not a legitimate member of Buckeye. Accordingly, the Commission ordered CG&E to establish the new delivery point to Hamilton and to provide transmission service to BMCI for the account of Hamilton under the rates, terms and conditions of the Buckeye Power Delivery Agreement.

---

[1] The Power Delivery Agreement is dated January 1, 1968. The six investor-owned utilities are Ohio Power Company, Cincinnati Gas & Electric Company, DP&L, Columbus & Southern Ohio Electric Company, Monongahela Power Company, and the Toledo Edison Company. The background of the Agreement and the specific wording of the sections are set forth in the Initial Decision, in *Buckeye Power Company* v. *Cincinnati Gas & Electric Company*, Docket No. EL79-20, order issued January 9, 1981, pp. 4-9.

The AMP-Ohio Complaint

On April 16, 1981, AMP-Ohio and St. Marys filed a Complaint and Request For Interim Order against DP&L. The complainants alleged that DP&L, as a signatory to the Buckeye Power Delivery Agreement, has violated its contractual obligation under the Agreement by refusing to transmit power and energy for BMCI and AMP-Ohio for the account of St. Marys. They requested that the Commission (1) find that the Power Delivery Agreement requires DP&L to render this service, either on the basis of the *Buckeye* proceeding, which, according to the complainants, dealt with the same issue, or on the basis of extrinsic evidence presented in a hearing; (2) make any rates collected for transmission service under a separate rate schedule filed in Docket No. ER81–353–000 subject to refund in the event that complainants prevail; and (3) rule that the relief ordered should be applied in an equal and non-discriminatory manner to any other municipality in the DP&L service territory which wish to purchase power generated by Buckeye and either sold directly to such municipality by one of Buckeye's members or sold by such member to AMP-Ohio for resale to the municipality.

On June 1, 1981, DP&L filed an answer, denying that the Power Delivery Ageement requires DP&L to provide the transmission service requested and arguing that in becoming a party to the Power Delivery Agreement, DP&L never intended to provide transmission for the type of transactions sought by AMP-Ohio and St. Marys. DP&L also argued that it would be inappropriate to apply the results of the *Buckeye* proceeding to the instant complaint because St. Marys' relationship with DP&L is notably different from Hamilton's relationship with CG&E.[2] DP&L moved to dismiss the complaint on the grounds that the *Buckeye* findings cannot control the outcome here as matter of *res judicata* or collateral estoppel because DP&L did not participate in the *Buckeye* proceeding. In the alternative, DP&L requested that the complaint be set for hearing pursuant to sections 211 and 212 of the Federal Power Act, arguing that the *Penn Yan* decision of the United States Court of Appeals for the Second Circuit [3] would prohibit the Commission from expanding an existing voluntary wheeling arrangement without first holding a full hearing under sections 211 and 212. DP&L further contends that the complainants would be unable to meet their burden of demonstrating the statutory prerequisites under these sections.

On June 1, 1981, Buckeye filed a petition to intervene in support of the complainants, arguing that the issue in this docket is the same as in the recent *Buckeye* proceeding and that sections 211 and 212 are inapplicable because the relief requested would not enlarge the existing transmission rate schedule.

On June 8, 1981, the complainants filed an answer to DP&L's motion to dismiss, arguing that the complaint does not rest solely on the argument that the findings in *Buckeye* are controlling. On November 9, 1981, the complainants filed a motion seeking Commission action on the complaint.

Discussion

As a preliminary matter, the Commission finds that participation in this proceeding by Buckeye is in the public interest. Accordingly, its petition to intervene will be granted.

The Commission notes that the complaint rests one other grounds besides the *res judicata* or collateral estoppel theories. Accordingly, DP&L's motion to dismiss will be denied. We further note that DP&L's transmission service and rates to St. Marys have already been made subject to refund and subject to the outcome of this proceeding by the Commission's order of May 22, 1981, in Docket Nos. ER81–353–000, *et al.*, and by order of August 31, 1981 in Docket No. ER81–586–000,[4] as well as by the terms of a settlement agreement in Docket Nos. ER81–353–000, *et al.*[5]

The first question before the Commission is whether to (1) make a finding, based upon the findings in the *Buckeye* proceedings, that the Power Delivery Agreement requires DP&L to wheel Buckeye power to St. Marys under the rate schedule associated with the Buckeye project, or (2) to set the issue for hearing. Upon consideration of the arguments set forth in the pleadings of the parties, as well as the contents of the initial decision and the affirming order in *Buckeye*, the Commission has determined that the findings in *Buckeye* control.

The question raised in this proceeding was already litigated and decided in *Buckeye;* whether an investor-owned utility that is signatory to the Buckeye Power Delivery Agreement is obligated under the rates, terms and conditions of that agreement to transmit power and energy for a Buckeye member cooperative through AMP-Ohio for resale to municipality that is a partial requirements customer of the investor-owned utilty.[6] The only factual distinction which DP&L has drawn between the two proceedings is that Hamilton was an interconnection customer taking only backup services from CG&E, whereas St. Marys has continuously purchased a major portion of its system requirements from DP&L since 1973. DP&L has not offered any explanation why this distinction is material. The Commission determined in the *Buckeye* proceeding that the Power Delivery Agreement, when read as a whole, did not evidence any intent to exclude customers requesting only part of their requirements through a *Buckeye* member. Although Hamilton and St. Marys may vary in the degree of their reliance upon *Buckeye* for their energy needs, they are both partial requirements customers within the meaning of the evidence proferred in *Buckeye.* DP&L suggests no question of material fact as to which it might offer evidence that could yield a different result in a hearing.

Furthermore, the Commission finds no merit to DP&L's assertion that because it was not a party to the *Buckeye* proceeding, the findings in that docket cannot control the outcome of this proceeding. *Buckeye* involved an interpretation of the same provisions of the same contract that is at issue here. DP&L occupies the same position with the same rights and obligations under the terms of the Power Delivery Agreement, that respondent CG&E occupied in *Buckeye.* Moreover, St. Marys, as we have already determined, is a customer contemplated by the Agreement in the same sense that Hamilton was in *Buckeye.* There being no material factual distinction between the two proceedings, DP&L will be ordered to provide the transmission service requested under the rates and terms provided for service under the Power Delivery Agreement.

DP&L's argument that a hearing should be held on this matter pursuant to sections 211 and 212 of the Federal Power Act pursuant to the *Penn Yan* decision is not persuasive. In the *Penn Yan* proceeding, the Commission struck

[2] DP&L points out that St. Marys, which owns some generating capacity, has continuously purchased a major portion of its demand and energy requirements from DP&L on a long-term basis while Hamilton is a self-sufficient generating municipality which has purchased only backup or supplemental service from CG&E.

[3] *New York State Electric & Gas* v. *FERC,* 638 F. 2d 388 (2nd Cir. 1980), *cert. denied,* 102 S.C. 105 (1981).

[4] *St. Marys requested service under DP&L's transmission tariff in this docket.*

[5] *The settlement agreement was approved by the Commission by letter dated January 19, 1982.*

[6] Initial Decision at 18–23, affirmed by order of January 25, 1982 at 3.

down a restrictive contract provision and ordered a utility to provide service not originally covered by the terms of its agreement. In this proceeding, as in the *Buckeye* case, no expansion of a utility's commitment to wheel is being ordered, but rather a utility is being required to perform the service it voluntarily obligated itself to perform by entering into the Buckeye Power Delivery Agreement.

We find that it is appropriate pursuant to the settlement agreement between the parties in Docket Nos. ER81-353-000, *et al.*, to direct the refunds requested by complainants of revenues collected by DP&L under its transmission tariff for the delivery of Buckeye power and associated energy which are in excess of those amounts produced by application of the rates under the Buckeye Power Delivery Agreement. It is also appropriate that the findings in this complaint proceeding and in *Buckeye* be applied in an equal and non-discriminatory manner to any other municipal customer of DP&L which might wish to purchase off-peak Buckeye power through a legitimate Buckeye member cooperative.

The Commission orders:

(A) The motion of DP&L to dismiss the complaint in Docket No. EL81-14-000 is hereby denied.

(B) Buckeye's petition to intervene in this proceeding is hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; Provided, however, that participation by such intervenor shall be limited to the matters set forth in its petition to intervene; and provided, further, that the admission of such intervenor shall not be construed as recognition that it might be aggrieved by any order of the Commission in this proceeding.

(C) Pursuant to the provisions of the Buckeye Power Delivery Agreement, DP&L shall provide transmission service for the delivery of Buckeye power to the City of St. Marys under the rates, terms and conditions set forth in that Agreement.

(D) Within sixty (60) days of the date of this order, DP&L shall refund all amounts collected under the rate schedule accepted in Docket No. ER81-353-000 by our order of May 22, 1981, and the rate schedule accepted in Docket No. ER81-586-000 by our order of August 31, 1981, that are in excess of those amounts produced by application of the rates under the Buckeye Power Delivery Agreement, together with interest computed in accordance with § 35.19a of the Commission's regulations.

(E) The findings in this order shall be applied in an equal and non-discriminatory manner to any municipal customer wishing to purchase off-peak Buckeye power through a legitimate Buckeye member cooperative.

(F) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14268 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-515-000]

Appalachian Power Co.; Filing

May 19, 1982.

Take notice that American Electric Power Service Corporation (AEP) on May 11, 1982, tendered for filing on behalf of its affiliate Appalachian Power Company (APCO) Modification No. 9 dated January 1, 1982 to the Interconnection Agreement dated February 7, 1957 between Carolina Power & Light Company and APCO, APCO's Rate Schedule FERC No. 24.

AEP states that Sections 1 and 2 of Modification No. 9 provide for an increase in the demand charge for Short Term and Limited Term Power to $1.25 per kilowatt per week and $6.50 per kilowatt per month respectively when either party is the supplying party. Both schedules are proposed to become effective May 1, 1982. These APCO demand rates are substantially the same as the recently filed Short Term and Limited Term demand charges between APCO and Virginia Electric and Power Company (Docket No. ER82-296-000) which have been accepted by the Commission and made effective January 1, 1982 by Letter Order dated March 23, 1982.

Copies of this filing were served upon the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

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, 1.10. All such petitions or protests should be filed on or before June 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 82-14269 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-516-000]

Boston Edison Co.; Filing

May 19, 1982.

Take notice that Boston Edison Company (Boston) on May 11, 1982, tendered for filing a letter as evidence of amendment by Edison and the Reading Municipal Light Department (Reading) of two power supply contracts. Edison states that one amendment cancels Edison's Rate Schedule 119 providing for a 10 MW unit sale from Edison's Medway jets for the period November 1, 1981 through October 31, 1982, and that the other amendment extends over the same period and for the same amount of power Edison's Rate Schedule 120 providing for the sale of unit power from Edison's New Boston Units 1 and 2. Edison proposes an effective date of November 1, 1981.

Copies of the filing have been served upon Reading 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, 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 3, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 82-14270 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-20-000]

CMC Energy, Inc., Application for Adjustment

Issued: May 19, 1982.

Take notice that on April 20, 1982,

CMC Energy, Inc. (applicant), 1626 Guaranty Bank Plaza, Corpus Christy, Texas 78475, filed with the Federal Energy Regulatory Commission (Commission) and application for adjustment pursuant to section 502(c) of the natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301–3432, (Supp. IV 1980), and § 1.41 of the Commission's regulations. Applicant seeks a waiver of § 271.805 of the Commission's regulations.

Specifically, applicant was notified by Commission staff in letters dated May 11, 1981 that applicant's Southland Life Wells No. 23 and No. 31, based upon a Staff review of production records on file with the Railroad Commission of Texas (RRC), may have in each case produced in excess of an average of 60 Mcf per day during a 90-day production period ending subsequent to the qualifying 90-day production period and pursuant to § 271.805 of the Commission's regulations the notice of disqualification had not been filed with the Commission. Applicant states that the reason the wells exceeded 60 Mcf per production day was due to compression. Subsequent to receipt of the letters dated May 11, 1982 from the Commission staff, the applicant states that it filed an application for enhanced recovery with RRC on June 17, 1982. If the waiver of § 271.805 of the Commission's regulation is not granted, applicant alleges that it will have to refund a total of $177,280.96 or the difference of the otherwise applicable maximum lawful prices and the section 108 price, to Transcontinental Gas Pipe Line Corp., the purchaser of the gas from the Southland Life Wells No. 23 and No. 31. Applicant further alleges that the cost of production for the subject wells exceeds the applicable section 104 maximum lawful price which causes the applicant to bear an out-of-pocket loss.

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission's Rules of Practice and Procedures, Order No. 24, issued March 22, 1979, (44 FR 19861, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41(e). All petitions to intervene must be filed on or before June 9, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14271 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER77-485-003]

Carolina Power & Light Co.; Compliance Filing

May 19, 1982.

Take notice that on May 10, 1982, Carolina Power and Light Company filed compliance rates pursuant to Opinion Nos. 132 and 132–A, as clarified by the Commission's order of April 8, 1982.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 4, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14272 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6059-000]

Hydro Development Group, Inc., Application for License (5 MW or Less)

May 19, 1982.

Take notice that Hydro Development Group, Inc. (Applicant) filed on March 8, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for continued operation of a water power project to be known as the Fowler #7 Water Power Project No. 6059. The project is located on the Oswegatchie River in St. Lawrence County, New York. Correspondence with the Applicant should be directed to: Mark E. Quallen, Vice President, Hydro Development Group, Inc., P.O. Box 58, Dexter, New York 13634.

Project Description—The existing project consists of: (1) Three concrete dams, spanning the river banks and two small islands, with dimensions of 75 feet long and 25 feet high, 192 feet long and 20 feet high, and 154 feet long and 15 feet high; (2) a flume 55 feet long, 24 feet wide, and 20 feet deep; (3) a powerhouse with an installed capacity of 900 kW; (4) a transmission line 50 feet long; and (5) other appurtenaces. Applicant owns all existing facilities. The average annual generation is 6,000,000 kWh.

Purpose of Project—Project energy is sold to Niagara Mohawk Power Corporation.

Agency Comments—Federal, State, and local agencies that recieve this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within 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 July 30, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the tile "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents 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 RB at the above address. 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. 82-14273 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6058-000]

Hydro Development Group, Inc.; Application for License (5 MW or Less)

May 19, 1982.

Take notice that Hydro Development Group, Inc. (Applicant) filed on March 8, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for continued operation of a water power project to be known as the Hailesboro #4 Water Power Project No. 6058. The project is located on the Oswegatchie River in St. Lawrence County, New York. Correspondence with the Applicant should be directed to: Mark E. Quallen, Vice President, Hydro Development Group, Inc., P.O. Box 58, Dexter, New York 13634.

Project Description—The existing project consists of: (1) Two dam sections which are 92 feet long and 14 feet high and 58 feet long and 5 feet high, respectively, joining an island to the river bank; (2) a flume 200 feet long, 50 feet wide, and 22 feet high; (3) a powerhouse with an installed capacity of 1,490 kW; (4) a transmission line 50 feet long; and (5) other appurtenances. The average annual generation is 10,000,000 kWh. Applicant owns all project facilities.

Purpose of Project—Project energy is sold to Niagara Mohawk Power Corporation.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within 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 July 30, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 30, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the tile "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents 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 RB at the above address. 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. 82-14274 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-512-000]

Illinois Power Co.; Filing

May 19, 1982.

Take notice that on May 10, 1982, Illinois Power Company (Illinois) tendered for filing proposed Modification No. 4, dated April 14, 1982, to the Interconnection Agreement, dated January 14, 1975 between City of Springfield, Illinois and Illinois.

Illinois states that the filing is made for an increase for Short-Term Firm Capacity, Maintenance Power and Short-Term Non-Firm Power reservation charges and an increase for Non-Displacement Energy charges.

Illinois further states that a copy of this filing was served upon the City of Springfield, Illinois and the Illinois Public Service 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 June 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant 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. 82-14276 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-514-000]

Indiana & Michigan Electric Co.; Filing

May 19, 1982.

Take notice that American Electric Power Service Corporation (AEP) on May 11, 1982, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&ME), Modification No. 14 dated April 5, 1982 to the Interconnection Agreement dated December 30, 1960 between Indianapolis Power & Light Company (IP&L) and I&ME, I&ME's Rate Schedule FERC No. 21.

Modification No. 14 provides for an increase in the demand charge for Short Term Power to $1.25 per kilowatt per week when I&ME is the supplying party, and to $1.05/kW-week when IP&L is the supplying party. Also included in this modification is a provision to allow Short Term Power to be sold on a daily basis at the rate of one-fifth of the supply party's weekly demand rate. A similar rate increase and provisions for Daily Short T

Ottingererm Power have recently been accepted for filing by the Commission

and made effective March 15, 1982 by Letter Order of April 14, 1982.

AEP requests an effective date of April 4, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Public Service Commission of Indiana, the Michigan Public Service Commission of Indiana, the Michigan Public Service Commission, and the Illinois Commerce 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 June 4, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but not serve to make protestant 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. 82-14275 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6013-000]

Lewis County Public Utility District No. 1; Application for Preliminary Permit

May 19, 1982

Take notice that Lewis County Public Utility District No. 1 (Applicant) filed on February 22, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)) for Project No. 6013 to be known as the Summit/Carlton Creeks Water Power Project located on Summit and Carlton Creeks, near Packwood in Lewis County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Gary H. Kalich, Manager, Public Utility District No. 1 of Lewis County, P.O. Box 330, Chehalis, Washington 98532.

Project Description—The proposed project would consist of: (1) A proposed 8-foot high, 100-foot long concrete gravity diversion dam on Summit Creek and another on Carlton Creek; (2) a proposed 10,100-foot long, 42-inch diameter steel diversion conduit on Carlton Creek; (3) a proposed 7,400-foot long, 48-inch diameter steel penstock extending from the intersection of the diversion conduits to the powerplant; (5) a proposed powerplant with dual Francis turbine/generator units having an estimated total installed capacity of 8,600 kW and producing an average annual energy output of 30.2 GWh; (6) a proposed 1.6-mile long, 115-kV primary transmission line to connect to a proposed Cortright Creek Project line; (7) 0.55 miles of proposed gravel access roads; and (8) appurtenant facilities. The power would be utilized by the Applicant with excess marketed to the Bonneville Power Administration. The proposed project would be located entirely within the Gifford Pinchot National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects fo the project would be determined, along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $200.000.

Competing Applications—This application was filed as a competing application to Hydro Resource Company's application for Project No. 6013 filed on September 25, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for license or exemption to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practices and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a peition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITON TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents 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. 20406. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any 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. 82-14277 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1967-001]

Margery Somers Foster; Order Granting Rehearing for the Limited Purpose of Further Consideration and Granting a Stay of the Commission's Order

May 18, 1982.

By order issued on May 7, 1982, the Commission found that an interlock between Public Service Electric and Gas Company (PSEGCO) and Prudential Insurance Company of America (Prudential) was within the scope of section 305(b) of the Federal Power Act. The Commission also found that the holding of that interlock by Margery Somers Foster would not adversely affect public or private interests, subject to the condition that Prudential and its subsidiaries not underwrite or otherwise participate in the distribution and marketing of PSEGCO securities.

On May 8, 1982, Foster filed a petition for rehearing and requested a stay of the Commission's order. Foster objects to the condition placed on the Commission's approval of her

application that Prudential and its subsidiaries no longer deal in PSEGCO securities.

In order to afford additional time for consideration of the concerns raised in Foster's petition for rehearing, we shall grant rehearing of the May 7, 1982 order for the limited purpose of further consideration. This action, however, does not constitute a grant or denial of the application on its merits either in whole or in part. Furthermore, we believe that, in light of the impact of the May 7, 1982 order and the concerns raised by Foster on rehearing, including the irreparable harm that Foster contends may result from that order, it is appropriate to stay the effect of that order pending our further consideration.

The Commission Orders

(A) Rehearing of the May 7, 1982 order is hereby granted for the limited purpose of further consideration.

(B) As provided in § 1.34(d) of the Commission's Rules of Practice and Procedure, no answers to the request for rehearing will be entertained by the Commission since this order does not grant rehearing upon any substantive issue.

(C) The May 7, 1982 order is hereby stayed pending further consideration.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Hughes dissented.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14265 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6198-000]

North Carolina Electric Membership Corp.; Application for Preliminary Permit

May 19, 1982.

Take notice that North Carolina Electric Membership Corporation (NCEMC) (Applicant) filed on April 8, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)) for Project No. 6198 to be known as the B. Everett Jordan Dam Water Power Project located on the New Hope and Haw Rivers near Haywood and Pittsboro, in Chatham County, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Brian M. Flattery, Director, Construction and Alternative Project, North Carolina Electric Membership Corporation, 3333 North Boulevard, P.O. Box 27306, Raleigh, North Carolina.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' B. Everett Jordan Dam and would consist of: (1) A proposed powerhouse with a single generating unit having an estimated total installed capacity of 3,500 kW and producing an average annual energy output of 20 GWh; (2) a proposed 2.5-mile, 115 kV primary transmission line to connect to an existing Central Electric Membership line; and, (3) appurtenant facilities. The proposed market for the power is Central Electric Membership Corporation with excess power distributed to other NCEMC member corporations.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, state, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $49,876.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself (see: 18 CFR 4.30 et. seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 2, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 2, 1982.

Filing and Service of Responsive Documents—Any filings 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, and the Project Number of this notice. Any of the above named documents 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 RB at the above address. 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.

Kennth F. Plumb,

Secretary.

[FR Doc. 82-14278 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 606-001]

Pacific Gas & Electric Co.; Application for Amendment of License

May 19, 1982.

Take notice that the Pacific Gas and Electric Company (PG&E) filed on April 5, 1982, an application for an amendment of license (pursuant to the Federal Power Act and Articles 33 and 35 of its license) for its constructed Kilarc-Cow Creek Project, FERC Project No. 606. The project is located on Old Cow Creek and South Cow Creek in Shasta County, California. Correspondence with the Applicant should be directed to: Mr. W. M. Gallavan, Vice President, Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, Room 1087A, San Francisco, California 94106.

Description—PG&E filed a revised Exhibit S detailing its proposal to construct: (1) A fish ladder at the South Cow Creek Diversion Dam; and (2) a fish screening device at the South Cow Creek Canal Headworks. Below the Old Cow Creek Diversion Dam, PG&E would release 2 cfs from the Kilarc Main Canal into Old Cow Creek. Below the South Cow Creek Diversion Dam, PG&E would release, through the proposed fish ladder, 2 cfs in dry years and 4 cfs during other years.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before July 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents 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, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any 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. 82-14267 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER81-679-000; ER82-271-000]

Pacific Gas & Electric Co.; Order Granting Motion for Imposition of Interim Rates Pending Commission Action on Settlement Proposal

Issued: May 18, 1982.

On April 30, 1982, Pacific Gas and Electric Company (PG&E) filed a motion seeking Commission authorization to impose reduced interim rates in lieu of the rates originally filed in this proceeding and in lieu of the amended rates submitted by PG&E and accepted for filing by the Commission on March 12, 1982. PG&E seeks permission to collect the reduced rates, subject to refund, as of March 1, 1982. The motion states that all of PG&E's affected customers join in the company's request. For the reasons stated below, we shall grant the motion.

PG&E tendered its originally proposed rates for filing on August 12, 1981. These rates applied to firm power service to 10 municipal customers and to Sierra Pacific Power Company. By order issued on October 23, 1981, the Commission, *inter alia*, accepted the proposed rates for filing, suspended their effectiveness until January 1, 1982 (Phase I) and March 12, 1982 (Phase II), and ordered a hearing to be convened. PG&E subsequently submitted an amended filing reflecting a substantial reduction in its Phase II rate increase. Settlement negotiations among the parties have since resulted in a settlement in principle; the formal settlement agreement has not yet been executed by the parties, but PG&E states that an offer of settlement will be filed on or before May 18, 1982.

The settlement, as described by PG&E, would reduce the level of the Phase II rates substantially. PG&E's motion is designed to make the lower settlement rates immediately available. In addition, the motion requests that if the Commission ultimately rejects the settlement, PG&E be authorized to collect with interest, retroactive to March 1, 1982, the difference between the rates previously authorized to become effective on March 12, 1982, and the settlement rates. PG&E states that its customers unanimously concur in this aspect of the motion. Under the circumstances, we believe that the public interest will be served by granting PG&E's motion.

Pursuant to §§ 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, we find that good cause exists to permit the collection of the revised interim rates, subject to refund, as of March 1, 1982, until such time as the Commission acts upon the settlement agreement to be filed by PG&E. This order, however, shall be without prejudice to our subsequent determination on the merits of the proposed settlement.

The Commission orders:

(A) The motion filed by PG&E on April 30, 1982, requesting permission to collect reduced interim rates in lieu of the rates originally filed in this proceeding and in lieu of the subsequently amended rates, is hereby granted.

(B) Good cause having been shown, PG&E is hereby authorized, pursuant to §§ 35.1(e), 35.11, and 35.17(b) of the Commission's regulations, to collect, subject to refund, the revised rates reflected in its motion from March 1, 1982, until final Commission action on the settlement. In the event that the settlement is not approved, the provisions of PG&E's motion shall apply as to rates for the interim period.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14266 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2796-001]

Siskiyou County Flood Control and Water Conservation District; Application for License (5 MW or Less)

May 19, 1982.

Take notice that Siskiyou County Flood Control and Water Conservation District (Applicant) filed on November 24, 1981, and revised on February 24 and March 8, 1982, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for construction and operation of a water power project to be known as the Lake Siskiyou Power Project No. 2796. The project would be located on the Sacramento River in Siskiyou County, California. Correspondence with the Applicant should be directed to: Mr. D. A. Gravenkamp, Director of Public Works, Siskiyou County Department of Public Works, Yreka, California, 96097.

Project Description—The proposed project would consist of: installation of power generating facilities at Applicant's Box Canyon Dam, Principal features include: (1) The existing multiple-level intake structure; (2) extension of the existing low-level outlet and spillway; (3) a plant consisting of two turbine-generator units with a total rated capacity of 5,000 kW to be constructed under the spillway extension; (4) a switchyard and short transmission line segment; and (5) appurtenant facilities. The Box Canyon Dam is a 209-feet high, 1,100-feet long gravity and rockfill structure which forms Lake Siskiyou. The lake has a total storage capacity of 26,000 acre-feet and an approximate surface area of 430 acres at a normal pool elevation of 3181 feet.

Purpose of Project—The project estimated average annual generation is

21.9 GWh. Project power would be sold to a nearby utility system.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within 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 July 30, 1982, either the competing application itself (See 18 CFR 4.33 (a) and (d)) or a notice of intent (See 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before July 30, 1982.

Filing and Service of Responsive Documents—Any filings 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, and the Project Number of this notice. Any of the above named documents 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 RB at the above address. 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. 82-14279 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6222-000 and Project No. 6242-000]

Southeastern Hydro-Power, Inc., North Carolina Electric Membership Corp.; Application for Preliminary Permit

May 19, 1982.

Take notice that Southeastern Hydro-Power, Inc. (SHP) and North Carolina Electric Membership Corporation (NCEMC) (Applicants) filed on April 19, 1982, and April 21, 1982, respectively, competing applications for preliminary permits (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)) for Project Nos. 6222 and 6242, respectively, to be known as the William O. Huske Lock and Dam Water Power Project located on the Cape Fear River near Tar Heel and Fayetteville, in Bladen County, North Carolina. The applications are on file with the Commission and are available for public inspection. Correspondence with SHP should be directed to: Charles B. Mierek, Southeastern Hydro-Power, Inc., 838 Arlington Drive, Tucker, Georgia 30084. Correspondence with NCEMC should be directed to: Brian M. Flattery, Director, Construction and Alternative Project, North Carolina Electric Membership Corporation, 3333 North Boulevard, P.O. Box 27306, Raleigh, North Carolina 27611.

Project Description—The proposed projects would utilize the existing U.S. Army Corps of Engineers' William O. Huske Lock and Dam. The projects would operate in a run-of-river mode.

Project No. 6222 would consist of: (1) A proposed powerhouse with dual bulb turbine/generator units having an estimated total installed capacity of 4,000 kW and producing an average annual energy output of 29 GWh; (2) a proposed primary transmission line whose length, size, and location are yet to be determined; and, (3) appurtenant facilities. The proposed market for the power is Duke Power Company and Carolina Power and Light Company.

Project No. 6242 would consist of: (1) A proposed powerhouse with dual generating units having an estimated total installed capacity of 3,000 kW and producing an average annual energy output of 16 GWh; (2) a proposed one-mile long, 24.9 kV primary transmission line to connect to an existing Four-County Electric Membership Corporation line; and, (3) appurtenant facilities. The proposed market for the power is Four-County Electric Membership Corporation with excess power distributed to other NCEMC member corporations.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. NCEMC seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project; SHP seeks a 24-months permit to conduct these studies. In addition, historic and recreational aspects of the project would be determined, along with consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. NCEMC estimates that the cost of the studies would be $49,876; SHP estimates their cost at $75,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 30, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before August 2, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the

requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before August 2, 1982.

Filing and Service of Responsive Documents—Any filings 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, and the Project Number of this notice. Any of the above named documents 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 RB at the above address. 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. 82-14280 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-130-000]

Transwestern Pipeline Co.; Settlement Conference

May 19, 1982.

Take notice that a settlement conference in the above-captioned docket will commence at 10:00 a.m. on May 28, 1982. The conference will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend but if such persons have not previously been permitted to intervene in this matter by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14281 Filed 5-25-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed Week of April 9 through April 16, 1982

During the week of April 9 through April 16, 1982, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

May 19, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Apr. 9 through Apr. 16, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 9, 1982	Atlantic Richfield Company, Washington, D.C	HRZ-0035	Interlocutory Order. If granted: The Office of Special Counsel would be compelled to produce additional materials in response to the discovery motion granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Atlantic Richfield Company, Washington, D.C	HRZ-0038	Interlocutory Order. If granted: Atlantic Richfield Company would be permitted to depose DOE officials in order to examine the adequacy of the search conducted by the Office of Special Counsel to identify documents responsive to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Gulf Oil Corporation, Washington, D.C	HRZ-0039	Interlocutory Order. If granted: Gulf Oil Corporation would be permitted to depose DOE officials in order to examine the adequacy of the search conducted by the Office of Special Counsel to identify documents responsive to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Gulf Oil Corporation, Washington, D.C	HRZ-0040	Interlocutory Order. If granted: The Office of Special Counsel would be compelled to produce additional materials in response to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Louisiana Land and Exploration Company, Washington, D.C.	HRZ-0041	Interlocutory Order. If granted: Louisiana Land and Exploration Company would be permitted to depose DOE officials in order to examine the adequacy of the search conducted by the Office of Special Counsel to identify documents responsive to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Louisiana Land and Exploration Company, Washington, D.C.	HRZ-0042	Interlocutory Order. If granted: The Office of Special Counsel would be compelled to produce additional materials in response to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Marathon Oil Company, Washington, D.C	HRZ-0043	Interlocutory Order. If granted: Marathon Oil Company would be permitted to depose DOE officials in order to examine the adequacy of the search conducted by the Office of Special Counsel to identify documents responsive to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Marathon Oil Company, Washington, D.C	HRZ-0044	Interlocutory Order. If granted: The Office of Special Counsel would be compelled to produce additional materials in response to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of Apr. 9 through Apr. 16, 1982]

Date	Name and location of applicant	Case No.	Type of submission
Apr. 9, 1982	Standard Oil Company of Ohio, Washington, D.C.	HRZ-0045	Interlocutory Order. If granted: Standard Oil Company of Ohio would be permitted to depose DOE officials in order to examine the adequacy of the search conducted by the Office of Special Counsel to identify documents responsive to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Standard Oil Company of Ohio, Washington, D.C.	HRZ-0046	Interlocutory Order. If granted: The Office of Special Counsel would be compelled to produce additional materials in response to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Texaco, Inc., Washington, D.C.	HRZ-0047	Interlocutory Order. If granted: Texaco, Inc. would be permitted to depose DOE officials in order to examine the adequacy of the search conducted by the Office of Special Counsel to identify documents responsive to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 9, 1982	Texaco, Inc., Washington, D.C.	HRZ-0048	Interlocutory Order. If granted: The Office of Special Counsel would be compelled to produce additional materials in response to the discovery granted in *Atlantic Richfield Company*, 5 DOE ¶ 82,521 (1980), 6 DOE ¶ 82,501 (1980) and 6 DOE ¶ 82,553 (1980).
Apr. 12, 1982	Phillips Puerto Rico Core, Inc., Washington, D.C.	HEE-0024	Interlocutory Order. If granted: Phillips Puerto Rico Core, Inc. would receive an exception from the provisions of the Puerto Rico Naphtha Entitlements Program, 10 C.F.R. § 211.67, which would modify its entitlements purchase obligations.
Apr. 12, 1982	Professional Analysts, Eugene, Oregon	HFA-0051	Appeal of an Information Request Denial. If granted: The March 19, 1982, Information Request Denial issued by the Bonneville Power Administration would be rescinded, and Professional Analysts would receive access to a copy of the contract proposal submitted by Envirosphere.

[FR Doc. 82-14305 Filed 5-25-82; 8:45 am]
BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures to be followed in refunding to members of the public $570,362.98 in consent order funds. The funds are maintained in escrow accounts that were established in settlement of enforcement proceedings brought by the Office of Enforcement [now the Office of Special Counsel] in the Matters of Panhandle Eastern Pipeline Company ($280,127.98), PVM Oil Associates, Inc. $215,000), Loveladdy Oil Company ($25,000), Armstrong & Associates ($35,700) and Ethyl Corporation ($14,535).

DATE AND ADDRESS: Applications for Refund must be postmarked on or before August 24, 1982, and should be addressed to Panhandle (PVM), Loveladdy, Armstrong, Ethyl) Consent Order Refund Proceedings, Office of Hearings and Appeals, Department of Energy, 12th Street and Pennsylvania Avenue N.W., Washington, D.C. 20461. All applications and comments should display conspicuously a reference to the appropriate case name and number.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy director, Office of Hearings and Appeals, Department of Energy, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633-8377.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the final decision and order set out below. The final decision and order relates to consent orders entered into by the Office of Enforcement of the DOE's Economic Regulatory Administration and Panhandle Eastern Pipeline Company, *see* 44 FR 30153 (1979), Loveladdy Oil Company, *see* 44 FR 45663 (1979), and Ethyl Corporation, *see* 44 FR 47394 (1979), and a Consent Decree entered into by PVM Oil Associates, Inc. on June 29, 1979 *see United States v. PVM Oil Associates, Inc.*, Civil Action No. 79C 1697 (E.D.N.Y., filed June 29, 1979). Armstrong & Associates is a "reseller-retailer" of petroleum products and the other firms are "resellers" of petroleum products. Pursuant to the Consent Decree and consent orders, these firms have agreed to make refunds totaling over $570,000 to settle alleged violations of the DOE price regulations which occurred between 1973 and 1975.

The Office of Hearings and Appeals has previously issued a proposed decision and order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order funds. The proposed decision and order discussing the distribution of funds obtained through the Consent Decree or consent orders with the five firms was issued on November 4, 1981, 46 FR 25535 (1981).

The final decision and order reflects our analysis of comments received from interested parties. As we indicate in the final decision, applications for refund from the consent order funds may now be filed. Applications will be acceopted provided they are postmarked no later than ninety days from the date of publication of this notice. *See* 10 CFR 205.283. We will accept applications from all claimants that can affirmatively demonstrate that they have been directly injured by the violations alleged in the consent orders. A detailed discussion of what information a party must provide in order to assert a successful claim is set forth in the final decision and order appended to this notice.

The final decision reaches no determination with regard to the disposition of any funds in the second stage of the proceeding, however, because the most appropriate disposition of the remaining funds may be determined, to a great extent, by the amount of money that remains after the first stage of the proceeding. Instead, the final decision solicits further comments on the appropriate distribution of these funds. Commenting parties are requested to submit two copies of their comments. Comments should be filed within 30 days of publication of this notice, and should be addressed to the address set forth at the beginning of that notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, between the hours of 1:00 to 5:00 p.m.,

Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on May 20, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

May 20, 1982.

Special Refund Procedure

Name of Petitioner: Office of Enforcement, Economic Regulatory Administration: In the Matters of Panhandle Eastern Pipeline Company, PVM Oil Associates, Inc., Loveladdy Oil Company, Armstrong and Associates, and Ethyl Corporation

Dates of Filing: April 9, 1981, April 9, 1981, June 26, 1981, June 21, 1981, July 21, 1981

Case Numbers: BEF-0041, BEF-0042, BEF-0067, BEF-0069, BEF-0070

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration's Office of Enforcement (OE) (now the Office of Special Counsel) may request the Office of Hearings and Appeals (OHA) to formulate and implement special procedures to make refunds in order to remedy the effects of alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V.

In accordance with these regulatory provisions, the OE filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders entered into with Panhandle Eastern Pipeline Company (Panhandle), PVM Oil Associates, Inc. (PVM), Loveladdy Oil Company (Loveladdy), Armstrong & Associates (Armstrong), and Ethy Corporation (Ethyl) [hereinafter "the five firms"]. Under the terms of these consent orders, the five firms agreed to make refunds for alleged violations of the DOE price regulations in sales of fuel oil or motor gasoline in the following amounts: $280,127.98 (Panhandle) (*1*), $215,000 (PVM) (*2*), $25,000 (Loveladdy) (*3*), $35,700 (Armstrong) (*4*), and $14,535 (Ethyl) (*5*). The funds have been paid to the DOE and are now being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the Office of Hearings and Appeals regarding their distribution.

Background

A proposed decision and order which tentatively established special refund procedures to be used in adjudicating claims to the settlement funds involved in this proceeding was issued on November 4, 1981 and published in the **Federal Register**, 46 FR 55770 (1981). In the proposed decision we tentatively established a two-stage special refund procedure for the consent order funds. In the first stage, those firms which purchased fuel oil or motor gasoline during the relevant period from one of the five firms and who believed they were eligible for a portion of the consent order funds could file Applications for Refund pursuant to 10 CFR 205.283. Downstream purchasers would also be permitted to file Applications for Refund during the first stage of the refund process. Each application would be analyzed and individual deeterminations would be rendered on the merits of each. All meritorious claims would then be paid. We suggested that refunds to a person who established an entitlement to a refund would be made on a volumetric basis, *i.e.*, in the same proportion as the volume of the claimant's purchases correspond to the total volume of motor gasoline or fuel oil sold by the firm from which product was purchased during the relevant consent order period. We further requested that the five firms' first purchasers submit proposals setting forth appropriate mechanisms for returning moneys to the parties who likely paid increased prices as a result of the alleged overcharges. We also proposed that during the second stage of the refund process, refunds of remaining moneys might be made to rate-regulated utilities or to state governments in those states in which the five firms originally marketed fuel oil or motor gasoline during the relevant consent order periods. We alternatively proposed that if such plans proved infeasible, any portion of the settlement fund which, because of prohibitive administrative costs, might otherwise go undistributed be deposited in the Treasury of the United States. *See* 10 CFR 205.287(c).

The proposed decision and order was published in the **Federal Register** and copies were sent to all interested parties. The comment periods specified in the **Federal Register** have passed. The cases involving the five firms have in common many legal and factual issues. Panhandle (*6*), PVM, Loveladdy, and Ethyl are "resellers" of petroleum products as that term was defined in 10 CFR 212.31. Armstrong is a "reseller-retailer" of petroleum products as that term was defined in 10 CFR 212.31. During the relevant time periods, each of the five firms was subject to the Mandatory

Petroleum Price Regulations set forth in 10 CFR Part 212, Subpart F. First purchasers of each firm's product could file claims, which if properly established, might completely exhaust the consent order funds. Consequently, we believe that these five cases should be consolidated for a final determination concernig the first stage of the refund procedures.

The purpose of this decision will be to establish the mechanism by which firms or individuals that purchased fuel oil or motor gasoline from the five firms may file Applications for Refund. We shall first discuss the comments which we received concerning the first-stage refund procedures which we tentatively adopted in the proposed decision and order in these cases. Then we shall discuss in detail the Application for Refund procedures which we have decided to adopt. However, we shall not discuss the second-stage refund process in this decision. As noted above, if meritorious claims are filed by those parties who purchased product sold by the five firms, the consent order funds may be thoroughly depleted. In that event, no second stage would be necessary. Our determination concerning the eventual disposition of any residual funds will depend on the amount of money available after the first-stage claims procedure is completed. *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). It is therefore unnecessary at this time for us to reach the issues raised by commenters concerning the proposed disposition of funds remaining after all meritorious claims have been paid.(*7*)

Jurisdication To Fashion Refund Procedures

We previously determined that the jurisdictional requirements of Subpart V had been satisfied with regard to Panhandle and PVM. We therefore assumed jurisdiction over the distribution of funds involved in those two cases in a Decision and Order issued April 9, 1981. *See Office of Enforcement*, 8 DOE ¶ 82,515 (1981). With regard to Loveladdy, Armstrong, and Ethyl, we tentatively determined that we should likewise exercise our jurisdiction to distribute the funds in those cases in the November 4, 1981 proposed decision and order. *See* 46 FR 55770 (1981).

The DOE Subpart V regulations provide that "[T]his subpart shall be applicable to those situations in which the Department of Energy is unable to readily ideentify those persons who are entitled to refunds specified in ,*,*,* a Consent Order, or readily ascertain the amounts that such persons are entitled to receive." 10 CFR 205.280. After reviewing the record compiled in each of the cases involved in this proceeding we have concluded that the implementation of Subpart V proceedings in each case is appropriate. We shall therefore assume jurisdiction over the Distribution of consent order funds supplied by the five firms.

Comments on the Proposed Distribution Process

Following the issuance of the November 4 proposed decision and order, several states submitted comments contending that distribution of consent order funds should be made by state governments rather than by the OHA because the states have the inherent power to take possession of unclaimed funds belonging to their citizens.(*3*) Generally, we agree with these commenters that the States can serve as effective conduits for the distribution of unclaimed settlement funds in appropriate cases. Indeed, in a previous case, we suggested that a portion of certain settlement moneys may be distributed through the states if substantial amounts remain after all meritorious claims have been satisfied. *See Office of Enforcement*, 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Alkek*). However, we have concluded that it would be premature to relinquish these funds to the states at this time. Unlike the circumstances in *Alkek*, the settlement fund in the present five cases totals only approximately $570,000 and it is conceivable that meritorious claims might exhaust the entire fund. (*9*) If we find that substantial amounts of settlement moneys remain at the conclusion of the first-stage refund procedures, we might consider designing a second-stage refund mechanism utilizing state governments in the five firms' marketing areas for the distribution of unclaimed funds. However, we decline to do so at the present.

Comments on the Required Standard of Proof for Overcharge Claims

We proposed in our November 4 determination that claimants who are resellers or who are involved in the production or distribution of goods or services be required to demonstrate that, during the period covered by the consent order, they would have kept their prices for petroleum products or goods and services at the same level had the alleged overcharges not occurred. In other words, we stated that a claimant should demonstrate that when it purchased covered products from its supplier, market conditions would not permit it to pass through the additional costs associated with the alleged overcharges. In addition, we suggested that a reseller of petroleum products must have maintained until January 28, 1981 a "bank" of unrecovered product costs in order to demonstrate that it did not subsequently recover these additional costs by increasing its prices. By the terms of the proposed decision and order, a purchaser who is an ultimate consumer and who is not engaged in the sale or goods or services would not have to make a showing that it absorbed any unlawful price increases.

Some parties who submitted comments suggested certain additional classes of claimants that might be excused from showing injury. The Transportation Group, an *ad hoc* organization of trade associations whose members are regulated transportation companies, asks to be included in the class of claimants not required to proffer proof that they absorbed alleged overcharges. The Transportation Group contends that any overcharges suffered by its members would have been channeled to customers by regulatory bodies or private contractual agreements controlling prices charged. Under reguations applicable to these companies, however, refunds are factored into fuel cost aspects of the rate-making system and refund benefits to members would therefore be passed through to customers. Accordingly, the Transportation Group contends that it should be included in the class of ultimate consumer claimants who need only demonstrate that they purchased a specific quantity of product which was sold by one of the five firms during the relevant time periods in order to qualify for refunds.

We have decided that the Transportation Group's proposal is meritorious because it will assist us in distributing refunds in an efficient, cost-effective and equitable manner. *See* 10 CFR 205.282. The office of Special Counsel has reviewed the operation of the agencies which regulate transportation companies and has determined that refunds are indeed factored into rate-making systems. *See* 46 FR 29499 (1981) at 29500–01. In addition, we noted in *Office of Special Counsel*, 9 DOE ¶ 82,545 (1982) (hereinafter cited as *Pennzoil*) that refunds to regulated utilities and to agricultural cooperatives will similarly affect the prices charged to customers. Agricultural cooperatives are owned by member-customers, and ultimate consumers of petroleum products purchased by the cooperative will therefore receive the benefit of refunds either as a price reduction or as a distribution at the close of the cooperative's fiscal year. *See Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (hereinafter cited as *Tenneco*).

Consequently, we have concluded that refund applications from firms whose prices for goods or services are regulated by a government agency or by the terms of a cooperative agreement will not be required to show that they absorbed the alleged overcharges. Instead, those applicants should supply us with a full explanation of the manner in which refunds will be passed through to their customers in the form of lower prices or better service. In addition, distribution of refunds to these applicants will be conditioned on notice to the appropriate regulatory body or membership group.

We received other comments regarding the proposed standard of proof which ranged from assertions that the standard proposed was too lenient to assertions that the standard would be too difficult to meet. We continue to believe that "this inquiry into whether a claimant was injured in fact is most appropriate in a proceeding of this type where refunding moneys obtained through DOE enforcement proceedings is the primary focus." *Office of Enforcement*, 9 DOE ¶ 82,508 (1981) at 85,051. In establishing the standard of proof that a claimant must meet, we must strike a balance between a level so low that it would grant windfall benefits to firms who had suffered no injury and a level so high that only a few large firms would have the resources necessary to prepare an application. With that balance in mind, we turn to comments concerning what particular proof of injury should be required of remaining claimants.

We suggested in our proposed decision that another group of purchasers in addition to ultimate consumers might be excused from documenting more than the fact that they purchased products from one of the five firms during the relevant periods of time. We stated that we would consider establishing a threshold level of purchases under which applicants—primarily small firms and individuals—would not be required to make a detailed showing of actual injury. In *Vickers* we set a purchase threshold of 50,000 gallons of motor gasoline per month. Firms with purchases below that level were permitted to claim a refund based upon that level of purchases without having to submit evidence concerning their banks of unrecouped product cost increases and prevailing market conditions which prevented them from passing through the alleged overcharges. In addition, firms in the *Vickers* case who purchased more than an average of 50,000 gallons per month were excused from the required showing that the effects of the alleged violation were not passed through, provided that they were willing to limit their refund claims to the 50,000 gallons per month level.

After careful consideration we have concluded that it is in the best interests of efficient resolution of these proceedings to establish a threshold level of purchases below which a claimant need not demonstrate injury. If we were to adopt a requirement that every applicant supply full documentation of its injuries, it would discourage parties with small claims from making a refund application since the expense of documenting the injury could well exceed the refund to be eventually gained. Therefore, we believe that it is appropriate to minimize the level of proof required from small businesses who purchased relatively small amounts of product from one of the five firms. Based on our experience in the *Vickers* proceeding we have decided to set the threshold figure at 50,000 gallons per month or 600,000 gallons annually. Firms with purchases in excess of the threshold figure also may be excused from submitting evidence that increased costs attributable to the alleged violations were not passed through to customers, provided that they limit refund claims to 50,000 gallons per month or 600,000 gallons annually.

Now that we have enumerated groups of customers which will not be required to demonstrate that they absorbed unwarrented price increases, we will focus on the type of proof required of those parties not classified as ultimate consumers, rate-regulated businesses, agricultural cooperatives, or small volume purchasers. Our tentative conclusion in the proposed decision and order that a firm must demonstrate injury by showing both that it had sufficient "banks" of unrecovered costs and that it was unable to pass on the alleged ovecharges due to market conditions was objected to by Western Petroleum Company (Western) and Missouri Self Service Gas Company (MSSG) which purchased product from Panhandle. Both of these commenters claimed that a showing of market conditions at the time of the alleged overcharges would be difficult to make. These two firms maintain that even if they did pass on the overcharges to their customers, they still might have suffered injury due to lowered sales volumes that resulted from higher prices. Western contends that the burden of obtaining market data for periods in the past might well outweigh the benefits to be gained through the refund process. Moreover, Western objects to the proposed difference in standards applicable to claims submitted by large and small-volume claimants.

The concerns which have been expressed over the proposed requirement that a claimant offer evidence concerning past market conditions appear to be based upon a misconception as to how thorough and conclusive a showing will be expected.

We do not believe that the firms who file applications will find this requirement to be as difficult to apply in practice as it might appear. As we stated in the proposed decision, we would expect a more complete evidentiary showing from, for example, a large integrated refiner than from a small retailer. Despite Western's claims that it is unfair to set a higher standard for larger business enterprises, it is our experience that larger firms are more likely to have maintained detailed records which could be marshalled to show how their pricing decisions were made. Furthermore, those larger firms have greater resources and will likely be claiming larger refund amounts. Therefore, though we are not in a position to set forth all of the ways in which a claimant could make a required showing of market

conditions, we have determined that we shall retain as an element of the refund process a requirement that firms seeking sizable refunds demonstrate that they did not pass through the effects of the five firms' alleged regulatory violations to their own customers.

In summary, with respect to applicants that purchased less than an average of 50,000 gallons per month or 600,000 gallons per year of the relevant Panhandle, PVM, Loveladdy, Armstrong, or Ethyl products during the period for which a refund is claimed or that limit refund claims to that amount (hereinafter referred to as small-volume purchasers), we will require only proof of purchase of the claimed volume of products purchased from the five firms. With respect to applicants claiming a refund for purchase volume greater than that amount (hereinafter referred to as large-volume purchasers), we will require a showing that the purchaser did not pass through the price increases to its own customers. Retailers and resellers who are claiming refunds on the basis of purchases exceeding the 50,000 gallon per month small claim threshold level should submit two types of data in order to make the required showing. They should submit data summarizing the applicant's unrecouped increased product costs (bank) for each calendar quarter for which the firm claims a refund. If the applicant used its banked costs to increase its selling price at a later date, such data should be included in the application and the firm's refund may be appropriately reduced. We note that even if a firm's bank was reduced to zero during the period covered by the Consent Order, it may nevertheless be possible for the firm to establish eligibility for a refund by showing that during the period, market forces reduced its sales and compelled the applicant to purchase and consequently to sell a smaller volume of relevant product with correspondingly lessened profits. In addition, they should submit any other types of available data showing that they were not able to increase their prices to pass through the alleged overcharges due to market conditions. Although we shall not engage in a time-consuming legal and factual analysis leading to a precise measure of damages, we wish to emphasize that the burden of establishing eligibility for a refund rests on the claimant.

Allocations of Refund Money

In *Vickers* we utilized a "pure" volumetric method of allocating refunds to claimants, *i.e.*, refunds were based solely on the proportion of product purchased by the applicant to the total amount of product sold by the supplier during the relevant audit period. Based on our experience in Subpart V cases since that time, however, we now believe that the adoption of the "pure" volumetric plan of distribution would not be the best mechanism for allocating the consent order funds in the present case. There are a number of factors leading to this conclusion. First, we note that the size of the monetary settlements which are involved in Subpart V proceedings are arrived at through negotiations involving the DOE and the firms charged with alleged regulatory violations. In *Penzoil*, we noted that the size of the settlement fund is based not only upon the magnitude of the violations alleged by the government, but also upon other factors such as each party's views as to the probable length, expense, and outcome of litigation. In *Vickers*, the settlement fund was relatively large in proportion to the volume of product covered by the conset order and would therefore yield a significant per gallon refund. In *Pennzoil*, by contrast, the settlement fund was small in relation to the total volume of products involved, and successful claimants would have recovered a refund of only $.000375 per gallon if the settlement fund were distributed on a "pure" volumetric basis.

Because the size of the refund pool derived from consent orders is a negotiated issue, the amount of money available for distribution is likely to be less than the amount needed to make full restitution to injured claimants, as in the present instance. Where a "pure" volumetric refund distribution scheme is adopted, there is in effect an additional limitation on the amount of refund which can be distributed to a successful claimant because of the per gallon refund ceiling. In the event that a significant number of applicants fails to demonstrate the merits of their claims, the total amount of refunds made to successful claimants may be far less than the amount of the settlement funds available for distribution. We therefore believe that it is fully consistent with the restitutionary objectives of the present proceeding to distribute available funds by a method other than the *Vickers* "pure" volumetric distribution scheme. Accordingly, we will adopt an alternative means of distribution based on a modified version of the "pure" volumetric refund formula. *See, e.g., Pennzoil*, 9 DOE at 85,246–8.

We shall first establish a "floor" or minimum amount a successful claimant could receive which will assist a potential applicant in deciding whether or not to apply for a refund. In this proceeding the minimum amount that a successful claimant will recover can be determined by multiplying its total product purchases (in gallons) by a factor computed using the total amount of money available for distribution (*i.e.*, the relevant consent order amount) divided by the total sales (in gallons) by the relevant firm of all products covered by the individual Consent Order. However, after the minimum refund amount has been determined for each successful claimant, the OHA will also give consideration to the following factors in determining individual refunds: (i) the amount of interest accumulated in the escrow account since the DOE received settlement funds from each of the five firms; (ii) the number of qualified claimants, and the aggregate volume of their purchases from the firms as compared to the amount of products sold by these firms during the consent order period; (iii) the impact of the alleged violations on the claimant's business; (iv) the market conditions prevalent during the consent order period; (v) the claimant's position in the distribution chain, *i.e.* whether it is a refiner, reseller, or ultimate consumer; and (vi) the manner in which the claimant's business is governed by federal, state or local regulatory agencies or other relevant private contractual agreements, such as those affecting agricultural cooperatives. A weighing and balancing of these factors will enable us to further the restitutionary goals of Subpart V and the underlying statutory objectives.

Application for Refund Procedures

After having considered all the comments received concerning the first-stage proceedings tentatively adopted in our Proposed Decision and Order we have concluded that: (i) the OHA has properly asserted jurisdiction over these cases pursuant to 10 CFR Part 205, Subpart V; (ii) the OHA has authority to implement the refund procedures set forth in this decision; and (iii) Applications for Refund should now be accepted from parties who purchased No. 2 fuel oil or motor gasoline from Panhandle, PVM, Loveladdy, Armstrong, or Ethyl. We shall now discuss the specific requirements for Applications for Refund that we have decided to adopt.

We have determined to accept Applications for Refund of a portion of the five firms' consent order funds filed within 90 days after the publication of this Decision and Order in the Federal Register. *See* 10 CFR 205.283. We will consider all applications, although we may later impose a lower dollar limit on claims. *See* 10 CFR 205.286(b). Applications made on behalf of a class of claimants will be considered on a case-by-case basis. An application must be in writing, signed by the applicant, and specify which case it pertains to, by firm name and case number. If the applicant is not a direct purchaser from one of the five firms, it should indicate from whom the relevant product was purchased and indicate what basis the applicant has for its belief that the product which it purchased originated from Panhandle, PVM, Loveladdy, Armstrong, or Ethyl.

Any application for a refund in excess of $100 must be filed in duplicate, and a copy of that application will be available for public inspection in the Public Docket room of the Office of Hearings and Appeals, Room 1111, Federal Buildling, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Any applicant who believes that his application contains confidential information must so indicate on the first page of his application and submit two additional copies of his application from which the information that the applicant claims is confidential has been deleted, together with a statement specifying why any such information is privileged or confidential. Each application shall indicate whether the applicant or any person acting on his instructions has filed or intends to file any other application or claim of whatever nature regarding the matters at issue in the underlying enforcement proceeding. Each application shall also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, title, and telephone number of a person who may be contacted by the OHA for

additional information concerning the application. All applications should conspicuously display the appropriate case name and number and should be sent to: Consent Order Refund Proceeding, [Case Name and Number]; Office of Hearings and Appeals, Department of Energy, 12th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20461. All Applications for Refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

In order to assist applicants in establishing eligibility for a portion of the consent order funds, the following information should be included in each application filed by a purchaser of Panhandle, PVM, Loveladdy, Armstrong, or Ethyl products:

A. Each applicant should report its volume of purchases by calendar quarter for the period of time for which it is claiming that it was injured by the alleged overcharges;

B. Each applicant should specify how it used the product purchased from one of the five firms, *e.g.*, as a reseller or ultimate consumer;

C. If the applicant is a reseller, it should state whether it maintained banks of unrecouped product cost increases from the date of the alleged violation for that product through January 27, 1981. It should furnish the OHA with quarter by bank calculations for the entire period.([10]);

D. The applicant must state whether it or any of its affiliates have filed any other Applications for Refund which might affect its eligibility for a refund;

E. The applicant must submit evidence to establish that it did not pass on the alleged overcharges to its customers. For example, a firm may submit market surveys to show that price increases to recover alleged overcharges were infeasible.

The applicant should report whether it is or has been involved as a party in other DOE enforcement proceedings or section 210 actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

Distribution of the Remainder of the Consent Order Funds

Several comments addressed our proposed distribution of the remainder, if any, of the consent order funds after all meritorious claims have been paid. Those comments can be divided into two groups. First, some comments contend that the Office of Hearings and Appeals lacks the statutory or regulatory authority to implement the proposed distribution. Secondly, some comments acknowledge that this Office possesses the authority to fashion such a restitutionary mechanism, but suggest alternatives to or modifications of our original proposal. In this Decision, we are not implementing the second-stage refund procedure. Such a step would be difficult to take before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the consent order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-state distribution scheme. Moreover, in the present cases claimants could assert claims which, if meritorious, would completely exhaust the consent order funds. However, in order for members of the public to be made aware of outstanding issues and be able to comment on them, we summarized and briefly addressed the comments received concerning the proposed second-stage refund procedures in *Vickers*, 8 DOE at 85,398–99. Many of the same parties who commented on the second-stage procedures proposed for the *Vickers* case submitted virtually identical comments in the present cases. We will not reiterate our discussion of these issues. We continue to seek additional comments on these issues. Comments regarding second-stage procedures in the present case should be submitted to the OHA Consent Order Refund Proceeding at the address listed above within 30 days of publication of this Decision and Order in the **Federal Register.**

It is therefore ordered that:

The refund amount provided by Panhandle Eastern Pipeline Company, PVM Oil Associates, Inc., Loveladdy Oil Company, Armstrong & Associates, and Ethyl Corporation will be distributed in the manner set forth in the foregoing Decision.

Dated: May 20, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Footnotes

(*1*) An audit of Century Refining, a wholly owned subsidiary of Panhandle Eastern Pipeline Company, revealed possible pricing violations with respect to Century's sales of motor gasoline in the States of Missouri and Iowa during the period November 1, 1973, through December 31, 1975. Included among Century's first purchasers during that period were Missouri Self Service Company, Oskey Gas & Oil Company, Mutz Oil Company, Midwest Oil Company, I. V. Cole Petroleum Company, E. L. Bride and Kerr-McGee Corporation. In order to settle all claims and disputes between Panhandle and the DOE regarding Century's pricing of motor gasoline, Panhandle and the DOE entered into a consent order on May 15, 1979, in which Panhandle agreed to remit $280,127.98 to the DOE. Notice of the consent order was published in the **Federal Register** on May 24, 1979. *See* FR 30153 (1979). Interested parties were invited to submit written notice of potential claims against the settlement fund. Notices of claims were received from Western Petroleum Company, I. V. Cole Petroleum Company, and Mutz Oil Company.

(*2*) On June 29, 1979, the United States Attorney for the Eastern District of New York filed a civil action under section 209 of the Economic Stabilization Act of 1970, as amended, 12 U.S.C. 1904 note, against PVM Oil Associates, Inc., Pasquale V. Mazzarulli, and Joseph V. DiMauro. United States v. PVM Oil Associates, Inc., Civil Action No. 79C 1697 (E.D. N.Y., filed June 29, 1979). The complaint alleged that during the period January 1, 1974, through July 31, 1975, the defendants were involved in a scheme to violate the Mandatory Petroleum Price Regulations by charging prices exceeding maximum lawful levels in sales of No. 2 fuel oil in Westchester County, New York. In order to resolve the issues raised in the lawsuit, the parties entered into a Consent Decree on June 29, 1979, in which the defendants agreed to remit $215,000 to the DOE in settlement of all claims raised in the lawsuit. The OE has been unable to identify any persons or firms that purchased product from PVM during the audit period.

(*3*) In its audit of Loveladdy the OE found possible regulatory violations with respect to the firm's sales of No. 2 fuel oil and motor gasoline in the State of Texas during the period November 1, 1973, through April 30, 1974. The OE has identified thirty-eight firms and individuals who were first purchasers of fuel oil and gasoline from Loveladdy during the period concerned. The DOE and Loveladdy entered into a consent order under which Loveladdy agreed to remit $25,000 to the DOE in settlement of all claims and disputes between the parties arising from the audit. The terms of the final consent order were published in the **Federal Register** on August 3, 1979. *See* 44 FR 45663 (1979). Interested parties were given an opportunity to comment on the terms of the consent order and to submit written notice of potential claims against the refund amount. The DOE received no claims in response to that notice.

(*4*) The OE's audit of Armstrong also revealed possible pricing violations with respect to Armstrong's sales of No. 2 fuel oil in the State of Texas during the periods June 13, 1973, through August 19, 1973, and November 1, 1973, through May 31, 1975. Fifty-one first purchasers of No. 2 fuel oil from Armstrong during these periods have been identified. In order to settle all claims and disputes between the parties regarding the sale of No. 2 fuel oil, Armstrong and the DOE entered into a consent order on July 13, 1979, in which Armstrong agreed to pay $35,700 to the DOE. Notice of the consent order was published in the **Federal Register** on August 3, 1979. *See* 44 FR 45661 (1979). Interested parties were invited to comment on the terms of the consent order and to submit notice of claims against the settlement fund. No claim was received in response to that notice.

(*5*) An audit of Ethyl revealed possible pricing violations with respect to the firm's sale of No. 2 fuel oil in the State of Texas during the period January 17 through May 13, 1974. Stinnes Oil & Chemical Company purchased all of the No. 2 fuel oil whose sales were the subject of the audit. Stinnes in turn sold this product to Gulf States Utilities. In order to settle all claims and disputes between Ethyl and the DOE regarding Ethyl's sales of No. 2 fuel oil, Ethyl and the DOE entered into a consent order on July 30, 1979, in which Ethyl agreed to remit $14,535 to the DOE. Notice of the consent order was published in the **Federal Register** on August 13, 1979. *See* 44 FR 47394 (1979). Interested parties were invited to submit written notice to the DOE of potential claims against the settlement amount. No claim was received by the DOE in response to that notice.

(*6*) Panhandle is both a "refiner" and a "reseller" of natural gas liquids and refined

petroleum products as those terms were defined in 10 CFR 212.31. However, since this proceeding involves alleged overcharges on the part of Panhandle's wholly-owned subsidiary, Century Refining, which is a reseller of motor gasoline, Panhandle will be treated as a reseller under the DOE pricing regulations for purposes of this proceeding. *See* 10 CFR 212.91.

(*7*) We have already discussed many of the comments regarding second-stage distribution procedures in *Vickers*, 8 DOE ¶ 82,597 (1981).

(*8*) We received comments from the States of Michigan, Idaho, and Oregon. The States of Oregon and Michigan contend essentially that the two-stage refund process should be abandoned and that a one-stage mechanism administered by the state governments should be substituted. In support of this proposal, the states contend that: (i) individuals filing application for refund under the OHA plan would have great difficulty establishing injury casued by the alleged regulatory violations and (ii) the proposed first stage would be unlikely to further the objectives of Subpart V proceedings. The State of Idaho, on the other hand, generally supports a two-stage distribution plan but proposes that states should distribute all funds remaining at the conclusion of the first stage.

(*9*) The cases presently before us involve circumstances that are materially different from those present in *Alkek*. In *Alkek* most of the settlement funds were obtained from producers or resellers of crude oil whose alleged regulatory violations fell into three major categories. The first category concerned producers' sales of "old" price-controlled crude as "new" or "stripper well" oil subject to less stringent controls. The second type of violations involved producers who allegedly miscalculated the prices of "old" oil which they sold. The third type involved resellers or brokers of crude oil who miscertified "old" crude oil. We observed that due to the nature of these violations and the operation of the Crude Oil Entitlements Program, 10 CFR 211.67, it was likely that few firms would be able to demonstrate during the first stage that they had been injured. Consequently, we predicted that there would be a large fund remaining at the conclusion of the first stage of the refund process.

In addition, it may be easier to ascertain the locale of injured parties in this case than it was in *Alkek*, where we determined that it was unlikely that the effects of crude oil violations could be localized due to the operation of the Entitlements Program. In particular, we noted that the operation of the Entitlements Program would have spread the effects of the violations among all refiners even if they had not purchased crude oil from any of the crude oil producers involved. Consequently, we proposed to disburse the remainder of the *Alkek* funds through a nation-wide mechanism

(*10*) Those resellers who did not elect to maintain bank calculations for the period May 1, 1980 through January 27, 1981, do not, of course, have to supply bank calculations for that period. *See* 45 FR 27546 (1980).

[FR Doc. 82-14306 Filed 5-25-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 1G2428/T369; PH FRL 2129-2]

Chlorothalonil; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for the combined residues of the fungicide chlorothalonil and its metabolite in or on the raw agricultural commodity citrus. This temporary tolerance was requested by Diamond Shamrock Corporation.

DATE: This temporary tolerance expires December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM(21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: Diamond Shamrock Corporation, Agricultural Chemicals Division, 1100 Superior Avenue, Cleveland, OH 44114, has requested, in pesticide petition PP 1G2428, the establishment of a temporary tolerance for the combined residues of the fungicide chlorothalonil (2,4,5,6,-tetrachloroisophthalonitrile) and its metabolite (4-hydroxy-2,5,6-trichloroisophthalonitrile) in or on the raw agricultural commodity citrus at 0.1 part per million (ppm) as a result of pre-harvest applications. A food additive regulation permitting the residues of chlorothalonil and its metabolite in or on the raw agricultural commodity citrus oil at 10 parts per million (ppm) appears elsewhere in this issue of the Federal Register.

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 677-EUP-20 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, [92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Diamond Shamrock Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 31, 1983. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a 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 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: May 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-13930 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-274; PH FRL 2129-4]

Certain Companies; Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions proposing establishment of tolerances for residues of certain pesticide chemicals in or on certain raw agricultural commodities:

ADDRESS: Written comments to: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number "[PF–274]" and the specific petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, 703–557–1900.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received pesticide petitions proposing the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

FAP 1H5314. CIBA-GEIGY Corp., Agricultural Div., PO Box 11422, Greensboro, NC 27409. Proposes amending 21 CFR Part 193 by establishing a regulation permitting the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, each expressed as metalaxyl, in connection with an experimental program involving the application of the fungicide to growing tomatoes with a tolerance limitation of 3.0 parts per million (ppm) in or on processed tomato products.

FAP 1H5314. CIBA-GEIGY Corp. Proposes amending 21 CFR Part 561 by establishing a regulation permitting the combined residues of metalazxl in connection with an experimental program involving the application of the fungicide to the growing corps with tolerance limitations of 5 ppm in or on wet tomato pomace; 20 ppm in or on dry tomato pomace; 1 ppm in or on soybean hulls, soybean meal, and soybean soapstock.

FAP 2H5343. Mobay Chemical Corp., PO Box 4913, Hawthorne Road, Kansas City, MO 64120. Proposes amending 21 CFR Part 193 by establishing a regulation permitting the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazxol-1-yl)-2-butanone and its metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on the commodity milled wheat fractions, except flour at 4.0 ppm.

PP 2F2665. Mobay Chemical Corp. Proposes amending 40 CFR Part 180 by establishing tolerances for residues of the above fungicide (FAP 2H5343) in or on the commodities barley and wheat grain at 1.0 ppm; barley and wheat straw at 5.0 ppm; barley and wheat grain forage at 15.0 ppm; fat, meat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.5 ppm; fat, meat, and meat byproducts of poultry at 0.01 ppm; milk at 0.02 ppm; and eggs at 0.002 ppm. The proposed analytical method for determining residues is gas chromatography with scintillation spectrophotometry.

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136); Sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348))

Dated: May 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–13922 Filed 5–25–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59088; TSN FRL No. 2130–8]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: June 10, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59088]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW, Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following notices contain information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the public reading room E–107.

TME 82–17

Close of Review Period. June 26, 1982.

Manufacturer. Confidential.

Chemical. (G) Unsaturated alkyl amino alkyl dioxolane.

USE/Production. (G) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >500 mg/kg and <1,000 mg/kg, Acute dermal: Neat²–743 mg/kg. Toulene-982 mg/kg.

Exposure. During sampling.

Environmental Release/Disposal. Disposal by EPA approved incinerator.

TME 82–18

Close of Review Period. June 26, 1982.

Manufacturer. Confidential.

Chemical. (G) Dihaloethylacetate.

USE/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Acute oral: 470 mg/kg, Acute dermal: 1,558 mg/kg, Acute inhalation 16 parts per million (ppm).

Exposure. During sampling.

Environmental Release/Disposal. Disposal by EPA approved incinerator.

Dated: May 17, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–13925 Filed 5–25–82; 8:45 am]

BILLING CODE 6560–50–M

[PP 8G2079/T373; PN FRL 2129–7]

EM Industries, Inc.; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended a temporary tolerance for the combined residues of the growth regulator methyl 2-chloro-9-hydroxyfluorene-9-

carboxylate, methly 9-hydroxyflourene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate in or on the raw agricultural commodity cucumbers.

DATE: This temporary tolerance expires April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the **Federal Register** of February 25, 1981 (46 FR 14047), announcing the renewal of a temporary tolerance for the combined residues of the growth regulator methly 2-chloro-9-hydroxyfluorene-9-caroxylate, methyl 9-hydroxyfluorene-9-carboxylate, and methyl 2,7-dichloro-9-hydroxyfluorene-9-carboxylate in or on the raw agricultural commodity cucumbers at 0.1 part per million (ppm). This temporary tolerance was issued in response to pesticide petition (PP 8G2079), submitted by EM Industries, Inc., Plant Protection Division, 5 Skyline Drive, Hawthorne, NY 10532

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit (21137–EUP–3), which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that the extension of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. EM Industries, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires April 14, 1983. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

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 tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a 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 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: May 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82–13924 Filed 5–25–82; 8:45 am]

BILLING CODE 6560–50–M

[PP 2G2659/T374E; PH FRL 2129–5]

Pendimethalin; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the herbicide pendimethalin and its metabolite in or on the raw agricultural commodities wheat grain and wheat straw. These temporary tolerances were requested by American Cyanamid Company.

DATE: These temporary tolerances expire April 15, 1984.

FOR FURTHER INFORMATION CONTACT: Robert Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1800).

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Agricultural Division, P.O. Box 400, Princeton, NJ 08540, has requested, in pesticide petition PP 2G2659, the establishment of temporary tolerances for the combined residues of the herbicide pendimethalin [N-(1-ethylpropyl)-3,4-dimethyl-2,6-dinitrobenzenamine] and its metabolite 4-[(1-ethylpropyl)amino]-2-ethyl-3,5-dinitrobenzyl alcohol in or on the raw agricultural commodities wheat grain and wheat straw at 0.1 part per million (ppm).

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 241–EUP–101 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide, Act (FIFRA) as amended, (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire April 15, 1984. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–

534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a 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 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: May 14, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-13923 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

[PF-273; PH-FRL 2130-6]

Oregon Department of Agriculture; Pesticide Petition

AGENCY: Environmental Protection Agency. (EPA).

ACTION: Notice.

SUMMARY: The Oregon Department of Agriculture has submitted a pesticide petition to EPA proposing to establish a tolerance for the combined residues of the insecticide carbaryl in or on the commodity oysters.

ADDRESS: Written comments to: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 40460.

Written comments may be submitted while the petition is pending before the Agency. The comments are to be identified by the document control number "[PF–273]" and the petition number. All written comments filed in response 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.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, 703–557–2386.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received a pesticide petition (PP 1F2554) from the Oregon Department of Agriculture, Agriculture Building, 635 Capitol St. N.E., Salem, OR 97310, proposing the establishment of a tolerance for the combined residues of the insecticide carbaryl (1-naphthyl-*N*-methylcarbamate) and its hydrolytic product 1-naphthol, in or on the commodity oysters at 0.25 part per million in accordance with the Federal Food, Drug, and Cosmetic Act. Proposed analytical method for determining residues is gas chromatography using an electron capture detector.

(Sec. 408(d)(1), 68 Stat. 512 (7 U.S.C. 136))

Dated: May 12, 1982.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 82-14091 Filed 5-25-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Bank Holding Company; Notice of Proposed de Novo Nonbank Activities

The bank holding company listed in this notice 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)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 18, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Ramapo Financial Corporation,* Wayne, New Jersey (extensions of credit and data processing activities; New York and New Jersey): To engage, through its subsidiary, RFC Services Corporation, in servicing loans and other extensions of credit for any person or company and in providing bookkeeping or data processing services for the internal operations of Ramapo Financial Corporation and its subsidiaries and storing and processing other banking, financial, or related economic data for other non-affiliated financial institutions. These activities would be conducted from an office of the subsidiary in Wayne, New Jersey, serving the New York City metropolitan area, primarily northern New Jersey.

Board of Governors of the Federal Reserve System, May 20, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14259 Filed 5-25-82; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Office of the Administrator

General Services Administration Advisory Board; Meeting

Notice is hereby given that the Facilities and Buildings Management subcommittee of the GSA Advisory Board will meet on June 10, 1982 from 10:00 a.m. to 4:30 p.m., in Room 5141–A, 18th and F Streets, NW, Washington, D.C. 20405. This session will be open to the public and will involve discussions of current management issues relating to the Public Buildings Service.

For further information, contact Roger C. Dierman, Deputy Associate Administrator (202) 523–1141.

Charles S. Davis, III,

Associate Administrator.

[FR Doc. 82-14314 Filed 5-25-82; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources Administration

National Council on Health Planning and Development; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of July 1982:

Name: National Council on Health Planning and Development

Date and Time: July 8–9, 1982: 8:45 a.m.

Place: Auditorium, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201

Open for entire meeting.

Purpose: The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Pub. L. 93–641, (2) the implementation and administration of Titles XV and XVI of Pub. L. 93–641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda: "Capital, Financial, Organizational Issues Facing Health Care Organizations in the 1980's;" status reports by Health Resources Administration officials; report of Subcommittee on Implementation and Administration; and public comment period.

Name: Implementation and Administration Subcommittee of the National Council on Health Planning and Development

Date and Time: July 8, 1982: 6:00 p.m.

Place: Room 525A, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201

Open for entire meeting.

Purpose: The objective of the Implementation and Administration Subcommittee is to study and make recommendations in the implementation and administration of Titles XV and XVI of the Public Health Service Act. Specific areas for the Subcommittee's consideration are (1) the impact of HHS's implementation and administration on the effectiveness of Health Systems Agencies (HSA) and State Health Planning and Development Agencies (SHPDA); (2) the effectiveness of the interrelationships between health planning agencies and HHS, Central and Regional Offices; (3) the timing and strategy of implementation and of the dissemination and distribution of regulatory and technical material; (4) how to better meet the needs of HSAs and SHPDAs; (5) the review of the Council's responsibilities under section 1122 of the Social Security Act; and (6) the review of the Council's responsibilities related to proposed terminations and/or non-renewals of HSAs and SHPDAs under sections 1515(c) and 1521(b) of the PHS Act.

Agenda: Review of a section 1122(d)(2) case—Valley Care Center.

Anyone requiring information regarding the subject Council should write to or contact Mr. Paul Schwab, Executive Secretary, National Council on Health Planning and Development, Health Resources Administration, Room 10–27, Center Building, 3700 East-West Highway, Hyattsville, Maryland, 20782. Telephone (301) 436–7170.

Agenda items are subject to change as priorities dictate.

Dated: May 18, 1982.

Jackie E. Nylen,

Advisory Committee Management Officer, Health Resources Administration.

[FR Doc. 82–14282 Filed 5–25–82; 8:45 am]

BILLING CODE 4160–15–M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975) as amended most recently in pertinent part at 46 FR 26873, May 15, 1981), is amended to reflect the following changes in the National Cancer Institute (NCI): (1) Establish the Radiation Research Program (RRP) in the Division of Cancer Treatment (DCT), and (2) Revise the functional statement of the Division of Cancer Treatment to reflect this change.

These changes will consolidate all radiation research activities into a cohesive organization with unified management as well as provide a focal point for future initiatives in radiation research.

Section HN–B, Organization and Functions is amended as follows:

(A) Under the heading *National Cancer Institute (HNC),* make the following changes:

(1) Delete the statement for the *Division of Cancer Treatment (HNC6)* in its entirety and substitute the following:

Division of Cancer Treatment (HNC6). (1) Plans, directs and coordinates an integrated program of intramural, extramural and clinical cancer treatment research as well as research conducted in cooperation with other Federal agencies with the objective of curing or controlling cancer in man by utilizing treatment modalities singly or in combination; (2) administers a total drug development program encompassing all phases from drug acquisition up to and including clinical trials; (3) serves as the national focal point for information and data on experimental and clinical studies related to cancer treatment and for the distribution of such information to appropriate scientists and physicians.

(2) After the statement for the *Biological Response Modifiers Program (HNC68),* insert the following statement for the *Radiation Research Program (HNC69)*:

Radiation Research Program (HNC69). (1) Plans, develops, administers, and evaluates an extramural radiation research program; (2) establishes program priorities, allocates resources, maintains project integration, evaluates program effectiveness and represents the program area in management and scientific decision-making meetings in the National Cancer Institute; (3) coordinates the research program activities with related programs elsewhere in the NCI and NIH with other Federal agencies and with national and international research organizations; (4) provides scientific support upon request to the Director, DCT, to the Director of NCI and other Institutes, to the Director, NIH, and to the DCT Board of Scientific Counselors and the National Cancer Advisory Board on matters pertaining to radiation research; and (5) provides a focal point within NIH for extramural investigators nationally and internationally on radiation research.

Dated: May 17, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82–14350 Filed 5–25–82; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–82–665]

Property Disposition Committees; Redelegation of Authority

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of correction of redelegation of authority.

SUMMARY: On May 5, 1982 a Notice of Redelegation of Authority was published at 47 FR 19471 revising the procedures governing Property Disposition Committees and to reserve to the Assitant Secretary for Housing-Federal Housing Commissioner or his/

her designee the authority to concur with, reject, modify or suspend dispositions authorized by a Committee. The Summary of the Notice states that the redelegation of authority is issued, among other things, to abolish the Headquarters Committee. That statement is erroneous. The Department intends to abolish the Headquarters Property Disposition Committee; however, this will not be accomplished until 24 CFR Part 290 is appropriately amended. Therefore, the reference in the Summary to the abolition of the Headquarters Committee is deleted. The effective date of the Notice is shown as March 17, 1982. This is also incorrect. The effective date of the redelegation of authority is changed to May 5, 1982. In addition, Section E, by which the redelegation of authority published on May 5, 1982 purported to revoke prior redelegations is deleted, since it would leave unclear the status of the Headquarters Committee which will remain technically in existence until abolished by impending amendment of Part 290.

FOR FURTHER INFORMATION CONTACT: Marvin T. Hilman, Director, Property Disposition Division, Office of Multifamily Financing and Preservation, Office of Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-7220. This not a toll-free number.

(Secretary's delegation of authority to redelegate published at 36 FR 5005, March 16, 1971)

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Dated: May 20, 1982.

Richard Lasner,

Assistant General Counsel for Regulations.

[FR Doc. 82-14258 Filed 5-25-82; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Permit

Notice is hereby given that an applicant has applied in due form for a permit to take sea otters as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations governing the taking and importing of Marine Mammals (50 CFR Part 18).

1. Applicant:

a. Name: VTN Oregon, Inc.

b. Address: 25115 SW Parkway Wilsonville, OR 97070

2. *Type of permit:* Scientific Research

3. *Name and number of animals:* Northern sea otter (*Enhydra lutris*)-60

4. *Type of Activity:* Capture, mark and release

5. *Location of Activity:* Bristol Bay, Aleutian Islands, Alaska from Cape Mordvinof to Cape Leontovich

6. *Period of Activity:* One year

The purpose of this application is to capture by tangle nets and underwater capture devices, mark 50 animals with colored cattle tags and 10 animals with radio transmitters, and collect fecal samples to determine foraging behavior and diet. Animals are to be released within 4 hours of capture.

Concurrent with the publication of this notice in the **Federal Register** the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

The application has been assigned file number PRT 2-9155. Written data or views, or requests for copies of the complete application or for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203, on or before June 25, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice are summaries of those of the applicant and do not necessarily reflect the views of the United States Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review during normal business hours in Room 605, 1000 North Glebe Road Arlington, Virginia.

Dated: May 21, 1982.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-14349 Filed 5-25-82; 8:45am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Parts 18 and 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the regulations governing endangered fish ans wildlife permits (50 CFR Parts 17 and 217-222).

1. *Applicant:*

a. Name: Envirosphere Company (P305).

b. Address: OMNI Building, 400 112th Avenue, N.E., Bellevue, Washington 98004.

2. *Type of Permit:* Scientific research/ Scientific Purposes.

3. *Name and Number of Animals:* An unspecified number of unidentified marine mammals which may include the following species:

Bearded Seal—*Erignathus barbatus*
Blue Whale—*Balaenoptera musculus*
Bowhead Whale—*Balaena mysticetus*
Dall's Porpoise—*Phocoenoides dallii*
Fin Whale—*Balaenoptera physalus*
Gray Whale—*Eschrichtius robustus*
Harbor Seal—*Phoca vitulina*
Humpback Whale—*Megaptera novaeangliae*
Killer Whale—Orcinus orca
Spotted Seal—*Phoca largha*
Minke Whale—*Balaenoptera acutorostrata*
Northern fur Seal—*Callorhinus ursinus*
Northern Sea Lion—*Eumetopias jubatus*
Ribbon Seal—*Phoca fasciata*
Ringed Seal—*Phoca hispida*
Sei Whale—*Balaenoptera borealis*
Sperm Whale—*Physeter catodon*
Beluga Whale—*Delphinapterus leucas*
Walrus—*Odobenus rosmarus*

Because of the uncertainty in the number or species of animals that may be encountered, it is not possible to identify the maxumum number and frequency of animals that may be harassed.

4. *Type of Take:* The Applicant requests a permit to cover unintentional harassment incidental to aerial and shipboard surveys during research to determine marine mammal usage of the study area. Harassment is not a predetermined component of this study; however, verification of species identification, group size, or behavioral acts observed during the survey may unintentionally result in harassment.

5. *Location of Activity:* Navarin Basin, Bering Sea.

6. *Period of Activity:* 24 months.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on the portion of this application dealing with cetaceans and pinnipeds other than walrus should be

submitted to the Assistant Adminsitrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before June 25, 1882. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the assistant administator for Fisheries. Comments, views or requests for a public hearing on that portion of the application dealing with walrus should be submitted to the Director, Fish and Wildife Service,U.S. Department of the Interior, Washington, D.C. 20240.

All statements and opinions contained in the application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service or the Fish and Wildlife Service.

Documents submitted in connection with the above application are available for review in the following offices:

Asssistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehave Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802; and

Director, Fish and Wildlife Service, U.S. Department of the Interior, 1000 Glebe Road, North Arlington, Virginia.

Dated: May 20, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-14354 Filed 5-25-82; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Henry Mountain Resource Area, Utah; Designation of Areas of Critical Environmental Concern

AGENCY: Bureau of Land Management, Interior.

ACTION: Designation of certain public lands in the Henry Mountain Resource Area, Richfield District, Utah, as Areas of Critical Environmental Concern.

SUMMARY: Pursuant to the authority in the Federal Land Policy and Management Act of 1976 (Sec. 202(c)(3)) and 43 CFR 1601 the following areas are designated as areas of critical environmental concern:

North Cainville Mesa

All Federal lands above the Mesa Rim located in:

T. 28 S., R. 8 E. SLBM,
Secs. 12, 13, and 24.
T. 28 S., R 9 E. SLBM,
Secs. 4, 5, 7, 8, 9, 18, and 19.
Approximate acreage 2,200.

South Cainville Mesa

All Federal lands above the Mesa Rim located in:

T. 28 S., R. 9 E. SLBM,
Sec. 33.
T. 29 S., R. 8 E. SLBM,
Secs. 1, 12, 13, 14, and 24.
T. 29 S., R 9 E. SLBM,
Secs. 5, 6, 7, 8, 17, 18, and 19.
Approximate acreage 4,200.

Beaver Wash Canyon

All Federal lands located below the Canyon Rim located in:

T. 29 S., R. 12 E. SLBM,
Secs. 13, 24, 25, 26, 34, and 35.
T. 29 S., R. 13 E. SLBM,
Secs. 7, 18, and 19.
Approximate acreage 4,800.

The three designated areas total approximately 11,200 acres in Wayne and Garfield Counties, Utah. The identification and designation of the areas listed above were done in conjunction with the preparation of a management framework plan for the Henry Mountain Planning Area. Following this designation, the Bureau of Land Management will prepare special management plans which will contain protective stipulations needed to safeguard the special resource values identified for each area. The multiple use management concept will still be employed to identify allowable compatible resource uses within the defined ACEC boundaries. Revision of the ACEC designation will require a plan amendment, including environmental analysis and public comment, through the planning process.

A copy of the Henry Mountain MFP is available at the Richfield District Office 150 East 900 North, Richfield, Utah 84701.

FOR FURTHER INFORMATION CONTACT: Donald L. Pendleton at the above address or telephone (801)896-8221.

Effective date: June 1, 1982.

Dated: May 18, 1982.

Roland G. Robison,

State Director.

[FR Doc. 82-14263 Filed 5-25-82; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-09518]

Idaho; Termination of Proposed Withdrawal and Reservation of Lands

May 17, 1982.

Notice of an application, serial number I-09518, for withdrawal and reservation of lands was published as Federal Register Document No. 58-6671 on page 6379 of the issue for August 20, 1958. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 7:45 a.m., on June 21, 1981, relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

Kaniksu National Forest

T. 60 N., R. 1 E.,
Sec. 19, lots 1 and 2.

The area described aggregates 79.53 acres in Bonner County.

Eugene E. Babin,

Acting Chief, Lands Section.

[FR Doc. 82-14103 Filed 5-25-82; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Recelamation and Enforcement

Determination of Valid Existing Rights Within Monongahela National Forest

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

ACTION: Interim final findings on extent of Mower Lumber Company's valid existing rights to conduct underground coal mining operations in the Upper Shavers Fork Subunit of the Monongahela National Forest in West Virginia.

SUMMARY: The Director, Office of Surface Mining Reclamation and Enforcement (OSM) has found that the Mower Lumber Company ("Mower") possesses valid existing rights (VER), and to that extent, its proposed underground coal mining operations in the Monongahela National Forest are not prohibited or limited by section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(e)). 45 FR 52467 (August 7, 1980) and 45 FR 61798 (September 17, 1980). The notice of that finding did not include a determination of the geographical extent of Mower's VER. Today's notice defines the geographical extent of Mower's VER.

DATES: Effective Date: May 26, 1982. Written comments: Accepted unitl 5:00 p.m. E.D.T. on June 25, 1982.

ADDRESSES: Written comments must be mailed to: Administrative Record R&I-34, Office of Surface Mining, Room 5315-L, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. 20240.

Written comments may be hand carried to: Office of Surface Mining, Room 239, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. 20240

or

Office of Surface Mining, Room 5315, 1100 L Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: William Larkin, Office of the Solicitor, Department of the Interior, 18th and C Street NW., Washington, D.C. 20240, Phone: (202) 343–4591.

SUPPLEMENTARY INFORMATION

I. Procedural Matters.
II. Background.
III. Discussion of Decision.

I. Procedural Matters

A. Public Meetings

Representatives of OSM will be available to meet during the comment period at the request of members of the public to receive their recommendations and comments concerning the Director's finding. In order to schedule or attend such meetings, contact the individual listed under "FOR FURTHER INFORMATION CONTACT." OSM representatives will be available for these meetings between 9 a.m. and 4 p.m. local time, Monday through Friday, excluding holidays.

B. Public Comments

Written and oral comments should be as specific as possible. Comments not pertaining to those issues proposed here cannot be considered under this rulemaking. OSM appreciates any and all comments, but those most useful and likely to influence decisions on these findings will be those which include citation to legislative history, case law, technical literature or other relevant reasons for any given recommendation.

All written comments must be received by OSM by 5:00 p.m. e.d.t. on the date the comment period closes. OSM cannot ensure that written comments received after that hour, or delivered during the comment period to locations other than those specified above, will be considered and included in the Administrative Record. Notices of meetings, summaries of all meetings and telephone conversations, and all public comments received will be made available for public review in the Office of Surface Mining at the address noted above. Following the close of the public comment period, OSM will publish any appropriate changes to the decision announced here. If there is no need for further action by OSM, no further notice will be published, and the Director's decision as announced today will become final.

II. Background

On August 7, 1980, OSM published at 45 FR 52467 the preliminary finding of the Director that Mower has VER, as that term is used in section 522(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272(e)), at five mines located in the Monongahela National Forest in Randolph County, West Virginia. In the explanation of that preliminary finding, OSM solicited public comments on the substance of the finding and specifically solicited information on methods of determining the geographical extent of the VER.

Comments on this proposal were received from Mower and the West Virginia Highlands Conservancy. The information submitted did not provide a basis for any substantive change in the Director's proposed finding.

Therefore, the Director on September 17, 1980 (45 FR 61798), published his decision that Mower possesses valid existing rights at five mines known as Linan Nos. 1, 2, and 3 and Mower Nos. 1 and 2. However, because the review of evidence which would lead to a determination of the geographical extent of VER had not yet been completed, the decision reserved the right to define these parameters in a supplemental finding. The September 17, 1980 decision allowed Mower, upon compliance with all permitting requirements of appropriate State, Federal, and local authorities, to commence production at the five mines involved without a compatability determination, as may otherwise have been required under section 522(e)(2) of the Act for mining in national forests. The decision published today announces the Director's determination of the geographical extent of Mower's VER.

III. Discussion of Decision.

The following letter reflects the Director's decision in this matter and has been forwarded to the addressee.

Richard A. Flye, Esq.,
McKenna, Conner & Cuneo, 1575 I Street, NW., Washington, D.C. 20005

Dear Mr. Flye: I have reached a decision on the geographical extent of the valid existing rights (VER) of your client, the Mower Lumber Company, under section 522(e) of the Surface Mining Control and Reclamation Act of 1977, with respect to Mower's existing and planned underground mining activities in the Upper Shevers Fork Subunit of the Monongahela National Forest, in Randolph County, West Virginia. Our letter to you on this subject published in the **Federal Register** on September 17, 1980 (45 FR 61798), found that Mower had valid existing rights at five separate underground sites, but reserved until later any determination of the geographic extent of those rights. The five sites are known as: Linan Number 1 (also known as Enviro Number 3), Linan Number 2 (Enviro Number 2), Linan Number 3, (Enviro Number 6), Mower Number 1, and Mower Number 2 (Enviro Number 2).

My finding that Mower had VER at these five sites included a determination that Mower had obtained or had made a good faith effort to obtain all required permits prior to August 3, 1977. "Required permits" included those issued by the West Virginia Department of Mines, the West Virginia Department of Natural Resources (Water Division), and the Forest Service, U.S. Department of Agriculture. Although Mower's intended mining activities in the subject area may extend over a period of 60 years, OSM believes that in the early 1970's neither West Virginia nor the Forest Service required applicants to specify the ultimate geographical extent of their proposed mining operations. Since the company was never required to precisely define the geographical extent of its ultimate mining operations, or to precisely establish the boundaries of the coal seams it intended to mine, I believe it would be unreasonable to now penalize Mower for these omissions.

Of course, my finding that Mower had VER in no way affects Mower's obligation to comply with the performance standards and other requirements of the Act and of all applicable regulations thereunder.

Accordingly, I conclude that Mower Lumber Company has valid existing rights to the coal seam or seams it proposed to mine from the five portals identified above. While this decisions does not restrict the number of location of portals from which Mower may mine these seams, the opening of any portal locations not identified in permit applications submitted prior to August 3, 1977, or currently in operation must be approved through new or amended permits by the Regulatory Authority. Further, I wish to emphasize that Mower, rather than the Regulatory Authority, must demonstrate that any new portal is, in fact, intended for mining the appropriate coal seam.

This decision does not constitute agreement with, or a favorable decision on all of the statements and arguments in Mower's request, nor does it affect Mower's obligation to comply with the permit and performance standards of the ????? and all regulations thereunder. The decision means only that the Mower need not seek a determination of compatibility pursuant to section 522(e)(2) of the Surface Mining Act and 30 CFR 761.12(c) prior to commencing operations on the effected coal seam(s) within the boundaries of the Upper Shavers Fork Subunit of the Monongahela National Forest.

If public comments concerning this decision cause me to reconsider the contents of this letter, I will send an additional letter to you and publish a further notice in the **Federal Register.**

Dated: May 20, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-14367 Filed 5-25-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier; Agricultural Cooperative Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: May 21, 1982.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Ag. Carriers, Inc.
(2) P.O. Box 2460, Leesburg, FL 32748
(3) 5501 South Highway 441, Leesburg, FL 32748
(4) Michael Pregmon, Jr., P.O. Box 2460, Leesburg, FL 32748

(1) Gold Kist Inc.
(2) P.O. Box 2210, Atlanta, GA 30301
(3) Highway 71 South at 62, Fayetteville, AR 727.1
(4) William Conner, P.O. Box 1847, Fayetteville, AR 72701

(1) Rockingham Poultry Marketing Cooperative, Inc.
(2) Broadway, VA 22815
(3) Broadway, VA 22815
(4) June M. Fahrney, P.O. Box 117, Timberville, VA 22853

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14245 Filed 5-25-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is Ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-79793. By decision of May 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to New Mexico Supply Truck Division, Inc., of Albuquerque, NM, of Certificate No. MC-146562 (Sub-No. 2) issued January 23, 1981, to Victor L. Mathis, d.b.a. Lobo Leasing Company, of Albuquerque, NM., authorizing: *petroleum products* and *drywall products,* in packages or containers, between points in NM, on the one hand, and, on the other, points in CA. Representative: James C. Ash, 2524 Vermont NE, Albuquerque, NM, 87110, Phone (505) 298-7511. TA lease is not sought. Transferee is not a carrier.

MC-FC-79804. By decision of May 17, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to CLARK'S BUS SERVICE, INC., of Red Lodge, MT, of Certificate No. MC-129131 (Sub-No. 1), issued to AMOS C. CLARK, also of Red Lodge, MT, which authorizes the transportation of *passengers and their baggage,* over regular routes, between Red Lodge, MT, and Twin Lakes and Gardner Headwalls (Park County), WY, over U.S. Hwy 212, serving no intermediate points. Representative: John W. Clark, P.O. Box P, Red Lodge, MT 59068.

Note.—Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14243 Filed 5-25-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 258]

Motor Carriers; Permanent Authority Decisions; Removals; Decision-Notice

Decided: May 19, 1982.

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.

CANADIAN CARRIER APPLICANTS: In the event an application to transport property, filed by a Canadian domiciled

motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 45539 (Sub-2)X, filed May 6, 1982. Applicant: INTERNATIONAL FORWARDING SYSTEMS, INC., d.b.a. ATLAS MOVING VANS, 180 Atlantic Avenue, Garden City Park, NY 11040. Representative: Gary Hall (same address as applicant). Lead certificate, broaden to "household goods and furniture and fixtures," from household goods.

MC 60066 (Sub-39)X, filed May 10, 1982. Applicant: BEE LINE MOTOR FREIGHT, INC., 1804 Paul Street, Omaha, NE 68102. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Subs 19 and 21F, broaden: to radial authority (Sub 19); and to "such commodities as are dealt in by manufacturers and distributors of automotive parts and equipment" from shock absorbers (Sub 21).

MC 105774 (Sub-17)X, filed May 10, 1982. Applicant: JOHNSON TRUCK LINE, INC., Jct US Hwy 281 & US Hwy 24, Box 403, Osborne, KS 67473. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601. Sub 10: (1) broaden iron and steel articles to "metal products" (part 1), bentonite clay and lignite coal (except in bulk) to "ores and minerals, clay, concrete, glass or stone products, and coal and coal products" (part 2), lignite coal (except in bulk) to "coal and coal products" (part 3), and wrought iron pipe to "metal products" (part 4); (2) remove the facilities limitations; (3) change one-way to radial authority; and (4) broaden Sterling and Rock Falls, IL, to Whiteside County, IL (part 1), and Blue Island, Evanston and Chicago, IL to Chicago, IL (part 4).

MC 117592 (Sub-4)X, filed May 12, 1982. Applicant: GERALD L. KRAMER, Route #4, Quakertown, PA 18951. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. Subs 1, 2, and 3: (1) broaden cinders to "clay, concrete, glass or stone products, waste or scrap materials not identified by industry producing, and pulp, paper and related products", Sub 1, and cast stone products to "clay, concrete, glass or stone products," Sub 3; (2) remove facilities limitations, Sub 3; (3) change one-way to radial authority, Subs 1 and 3; and (4) broaden cities to county-wide authority: Allentown, PA (Lehigh and Northampton Counties), Riegelsville, PA (Bucks County), and points in NJ within 25 miles of Riegelsville, PA (Warren, Hunterdon, Somerset, Morris and Mercer Counties), Sub 2; and Dallastown (York County), PA (York County) and Hilltop Township (Bucks County), PA (Bucks County), Sub 3.

MC 136674 (Sub-1)X, filed May 10, 1982. Applicant: BAY AREA FORWARDERS, INC., 865 Isabella St., Oakland, CA 94607. Representative: Thomas M. Loughran, 100 Bush St., 21st Fl. San Francisco, CA 94104. Lead certificate: Remove restriction which limits transportation to pickup and delivery service incidental to packing or unpacking of shipments having a prior or subsequent movement in containers beyond the points authorized.

MC 140563 (Sub-55)X, filed May 7, 1982. Applicant: W.T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Subs 1, 2, 7, 8, 10F, 12F, 15F, 19F, 20F, 21F, 24F, 28F, 29F, 35F, 36F, 37F, 40F, 44F, 46F, 50F and 53F. Broaden: Subs 1 and 2, advertising matter and newspapers supplements, when moving in mixed loads/same vehicle with advertising matter, to "printed matter"; Subs 7, 12 and 40, foodstuffs, in containers equipped with mechanical refrigeration; part (1), pretzels and malt beverages and part (2), materials, equipment and supplies used in the manufacture/distribution of those commodities, to "food and related products"; Subs 8, 15, 19, 29, 36 and 37, part (1), newsprint paper, groundwood paper, woodpulp, paper, paper products and pulpboard boxes (except corrugated), and part (2), waste newspaper, core and materials, equipment and supplies used in the manufacture/distribution of commodities in part (1), except in bulk, and Sub 46, paper and paper products, to "pulp, paper and related products"; Sub 10, part (1), molded expanded polystyrene and part (2), materials/equipment used in manufacture/distribution of molded expanded polystyrene, except in bulk, to "rubber and plastic products"; Subs 20, 21, 24, 35 and 44, part (1), insulating products and materials, fibrous glass products and materials, mineral wool, mineral wool products and materials, glass fibre rovings, yarn and strands, glass fibre mats and mattings, fibreglass mineral wool insulation, flexible air ducts, except in bulk, and part (2), materials, equipment, supplies used in the manufacture/distribution of commodities in part (1), except in bulk, to "clay, concrete, glass or stone products, and pulp, paper and related products"; Sub 28F, copper tubing, to "metal products"; Sub 53F, part (1), cleaning and polishing compounds, textile softeners, lubricants, deodorants, disinfectants, hypochlorite solutions, paints and plastic bags, and filters, except in bulk, and part (2), materials, equipment, supplies used in the manufacture/distribution of commodities in part (1), except in bulk, to "chemicals and related products, petroleum, natural gas and their products, rubber and plastic products, and filters (except in bulk)"; to radial authority in all but Subs 20, 21, 24 and 44; Sylacauga to Talladega County, AL (Sub 1); Morrow Facilities to Clayton County, GA, (Sub 2); Port of New Orleans to Orleans Parish, LA (Sub 7); Calhoun facilities to McMinn County, TN (Subs 8 and 15); Decatur facilities to DeKalb County, GA (Sub 10); Lancaster to Lancaster County, PA (Sub 12); Williamstown Junction to Gloucester County, NJ (Sub 20); Mountaintop facilities to Luzerne County, PA (Sub 24); Albany facilities to Dougherty County, GA (Subs 29 and 40); Memphis facilities to Shelby County, TN (Sub 35); facilities-Chattanooga to Hamilton County, TN and Cleveland to Bradley County, TN (Sub 36); Monroe and West Monroe facilities to Ouachita Parish, LA (Sub 37); facilities-Athens to Clarke County, GA; Atlanta to Fulton County, GA; Chamblee to DeKalb County, GA (Sub 44); St. Marys to Camden County, GA (Sub 46); facilities-Conyers, to Rockdale County, GA; Cochran to Bleckley County, GA; Crawfordsville to Montgomery County, IN (Sub 50); and Joliet facilities to Will County, IL (Sub 53); remove restrictions: against transportation of traffic originating at/

destined to facilities/points (Subs 7, 8, 20 and 21); against transportation of traffic moving for account of named shippers and to transportation of shipments having subsequent movement by water (Sub 7).

MC 148181 (Sub-3)X, filed May 13, 1982. Applicant: SALEM TRUCKING CO., R.D. No. 1, Franklin, ME 14634. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Subs 1F and 2F: (1) broaden the commodity description in 1F to "lumber and wood products" from lumber and lumber products, and in 2F to "metal products" from pipe, pipe fittings, conduit couplings (except commodities in bulk); and (2) broaden the territorial descriptions to between points in the U.S. under continuing contract(s), with a named shipper.

MC 142864 (Sub-32)X, filed May 10, 1982. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646, Representative: Philip B. Cochran, 50 West Broad St., Columbus, OH 43215. Sub-No. P30X permit: broaden from animal feed, materials and supplies, except commodities in bulk, to "food and related products, except commodities in bulk", part (5).

[FR Doc. 82-14246 Filed 5-25-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applicants may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP4-178

Decided: May 14, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 134426 (Sub-9), file May 10, 1982. Applicant: McCORT DRIVE-A-WAY, INC., P.O. Box 5057, Jacksonville, FL 32207. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 632-2300. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161897, filed May 10, 1982. Applicant: GORDON WETTER, P.O. Box 230, Delano, MN 55328. 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. (except AK and HI).

MC 161937, filed May 10, 1982. Applicant: JOHN POTTS d.b.a. DENMARK EXPRESS, Route 6, Townhall Rd. Green Bay, WI 54301. Representative: Nancy J. Johnson, 103 East Washington, St., Box 218, Crandon, WI 54520, (715) 478-3341. Transporting (1) *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, and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Volume NO. OP4-181

Decided: May 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 157687 (Sub-1), filed May 12, 1982. Applicant: COUNTRY WIDE TRUCKING, INC., 18520 Kishwaukee Valley Rd., Woodstock, IL 60098. Representative: G. J. Balek (same address as applicant), (815) 568-8344. Transporting, for or on behalf of the United States Government *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161927, filed May 11, 1982. Applicant: A & S DELIVERY SERVICE, INC., 30 Main St., Ashland, MA 01721. Representative: George C. O'Brien, 342 Wild Harbor Rd., N. Falmouth, MA 02556, (617) 563-9345. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in MA, ME, NH, VT, RI, CT, NY and NJ.

MC 161977, filed May 13, 1982. Applicant: W. G. FRAZIER & SON, INC.,

1500 S. Zarzamora—Room 110, San Antonio, TX 78207. Representative: W. G. Frazier, Jr., (same address as applicant), (512) 226–1411. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161987, filed May 13, 1982. Applicant: GALE ENTERPRISES, P.O. Box 82, Greencastle, PA 17225. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739–4860. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP4–183

Decided: May 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 161396, filed May 10, 1982. Applicant: L & N TRANSPORT, INC., 6540 Franklin, St., Lincoln, NE 68506. Representative: Betty J. Lautenschlager ((same address as applicant), (402) 483–6318. 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*, between points in the U.S. (except AK and HI).

Volume No. OP4–185

Decided: May 19, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 161676, filed April 26, 1982. Applicant: ROBERT AND SYLVIA BYRNES SR., d.b.a. R & S TRUCKING, 3914 Meridian Rd. SE., Olmpia, WA 98503. Representative: Robert H. Byrnes Sr. (same address as applicant), (206) 491–4592. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161966, filed May 14, 1982. Applicant: JERRY J. WOOD, 804 Gail, P.O. Box 1894, Springdale, AR 72764. Representative: Jerry J. Wood (same as address as applicant), (501) 756–1343. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5–113

Decided: May 17, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 161868, filed May 7, 1982. Applicant: KENNETH L. MURPHY/VIVIAN M. TADINA, d.b.a. K AND V TRUCKING, 980 Fern Ridge Rd., P.O. Box 58, Stayton, OR 97383. Representative: Vivian M. Tadina (same address as applicant), (503) 769–6221. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle, in such vehicle, between points in the U.S. (except AK and HI).

MC 161869, filed May 7, 1982. Applicant: NIPPON EXPRESS U.S.A., INC., 645 Fifth Ave., New York, NY 10022. Representative: Harry A. Gavalas, 127 John St., New York, NY 10038, 212–344–2083. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161919, filed May 10, 1982. Applicant: ANNA MOUDREE, JESSIE CLARK AND JUNE BECKER, d.b.a. TOTAL TRUCKING SERVICES, E. 6420 Mallon, Spokane, WA 99206. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543–8369. To operate as a broker of *general commodities* (except household goods) between points in the U.S. (except AK and HI).

Volume OP5–115

Decided: May 19, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 96339 (Sub-9), filed May 11, 1982. Applicant: ARROW MOVING AND STORAGE COMPANY, INC., 1702 Pacific Avenue, Cheyenne, WY 82007. Representative: James E. Ottoes, 314 Lake Place, Cheyenne, WY 82007, (307) 635–5233. Transporting *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in CO, ID, MT, NE, ND, SD, UT, and WY.

MC 152228 (Sub-1), filed April 26, 1982. Applicant: JOHN H. CLEGG, d.b.a. CLEGG MOBILE HOME SERVICE, 4301 Houston Hwy, P.O. Box 4470, Victoria, TX 77903. Representative: John Clegg (same address as above), (512) 578–0291. Transporting *mobile homes* between points in Victoria, Refugio, Goliad, De Witt, Lavaca, Jackson, and Calhoun Counties, TX, on the one hand, and, on the other, points in the U.S. (except HI).

Volume OP5–117

Decided: May 19, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 161988, filed May 13, 1982. Applicant: TONY HICKS TRUCKING, P.O. Box 122, Ovando, MT 59854. Representative: Tony Hicks (same address as applicant), (406) 793–5665. 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 ID, MT, ND, SD, WA, MN, and WY.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14247 Filed 5-25-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier, Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC

Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-173

The following applications were filed in region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620; Philadelphia, PA 19106.

WC 1344 (Sub-II-3TA), filed April 13, 1982. Applicant: LOCKWOOD BROTHERS, INC., P.O. Box 564, Hampton, VA 23669. Representative: Keith G. O'Brien, 1729 H St., NW., Washington, DC 20006. Water, contract: *Articles exceeding 19 feet in height, or 12 feet in width, or 90 feet in length, or 100 net tons in weight, component parts thereof, and and related equipment, between the port of Hampton Roads, VA, and ports and points on the James River, on the one hand, and, on the other, ports and points on the Atlantic Coast and tributary waterways from ME to FL, including the Hudson River and the NY State canal system,* under continuing contract(s) with the Power Authority of the State of NY, for 180 days. Supporting shipper(s): Power Authority of the State of NY, P.O. Box 215, Buchanan, NY 10511.

WC 1344 (Sub-II-4TA), filed April 30, 1982. Applicant: LOCKWOOD BROTHERS, INC., P.O. Box 564, Hampton, VA 23669. Representative: Keith G. O'Brien, 1729 H St., NW., Washington, DC 20006. Water, contract: *Articles exceeding 19 feet in height, or 12 feet in width, or 90 feet in length, or 100 net tons in weight, component parts thereof, and related equipment,* between Indian Point, NY and Charleston, SC, under continuing contract(s) with the Power Authority of the State of NY, for 180 days. Supporting shipper(s): Power Authority of the State of NY, P.O.B. 215, Buchanan, NY 10511.

MC 142723 (Sub-II-6TA), file May 10, 1982. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract; irregular: Such commodities as are dealt in or used by retail and wholesale grocery and food business houses* between Rostraver Township, Westmoreland County, PA and Summit Township, Butler County, PA on the one hand, and on the other, points in the US, under a continuing contract(s) with Fox Grocery Co., Monroeville, PA for 270 days. Supporting shipper: Fox Grocery Co., 4099 William Penn Hwy., Suite 600, Jonnet Bldg., Monroeville, PA 15146.

MC 142873 (Sub-2-2TA), file May 11, 1982. Applicant: D & W TRUCK LINES, INC., 200 First St. (Box 427), Parsons, WV 26287. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue, NW., Suite 500, Washington, DC. *Contract,* irregular *Footwear and materials, equipment and supplies* used in the manufacture and distribution of footwear, between points in the U.S., under continuing contract(s) with Carter Footwear, Inc. and Parsons Footwear, Inc., of Wilkes Barre, PA. Supporting shipper: Carter Footwear, Inc. and Parsons Footwear, Inc., 1167 N. Washington St., Wilkes Barre, Pa 18705.

MC 161921 (Sub-II-1TA), file May 10, 1982. Applicant: CHARLES R. ECKSTINE, Box 246, Greencastle, PA 17225. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Mobile and Modular Homes and Offices,* between pts. in Franklin and Lancaster Counties, PA; Washington County, MD; Berkeley and Morgan Counties, WV; and Frederick County, VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Cheasapeake Mobile Homes, 2624 Valley Ave., Winchester, VA 22601. J. Homes, Inc., 816 Lincoln Way, West, Chambersburg, PA 17201.

MC 161433 (Sub-II-2TA), filed May 12, 1982. Applicant: GREAT AMERICAN TRANSPORT, INC., 5008 Byrd Industrial Dr., Richmond, VA 23231. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. Contract, irregular: *meats, meat products and meat byproducts,* between points in CO, IA, KS and NE, on the one hand, and on the other, points in MD, NC, VA and DC, under continuing contract(s) with Associated Meats, Inc., of Silver Spring, MD. An underlying ETA seeks 120 days authority. Supporting shipper: Associated Meats, Inc., 11215 Oakleaf Drive, Silver Springs, MD 20901.

MC 161926 (Sub-II-1TA), filed May 10, 1982. Applicant: ROBERT HARTZLER, 229 Miller St., West Liberty, OH 43357. Representative: Steven R. Fansler, 127 N. Detroit St., West Liberty, OH 43357. *Contract; irregular: Sand, in bulk, in tank vehicles,* from pts. in IL to pts. in West Central OH, for 270 days, under continuing contract(s) with Hobart Corp., West Liberty, OH. An underlying ETA seeks 120 days authority. Supporting shipper: Hobart Corp., 600 N. Detroit St., West Liberty, OH 43357.

MC 161938 (Sub-II-1TA), filed May 11, 1982. Applicant: BONNIE A MEHRING, 414 Poole Rd., Apt. T-1, Westminster, MD 21157. Representatives: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740. *Lightweight Aggregate* between Woodsboro, MD and New Oxford, PA. An underlying ETA seeks 120 days authority. Supporting shipper(s): Alwine Brick and Block Div., Glen Gerry Corp., P.O. Box 1542, 6th and Court St., Reading, PA 19603.

MC 161749 (Sub-II-1TA), filed May 10, 1982. Applicant: P & F TRUCKING, INC., P.O. Box 897, 1125 National Rd., Hebron, OH 43025. Representative: Charles H. McCreary, 100 East Broad St., Columbus, OH 43215. *Contract; irregular: Solvents and hazardous waste materials,* between Licking County, OH on the one hand, and on the other, pts., in MI, PA, WV, IN, TN, KY, MD, TX and MO for 270 days, under continuing contract(s) with Safety-Kleen Corp., Hebron, OH. Supporting shipper: Safety-Kleen Corp., Newark Industrial Park, State Route 79, Hebron, OH 43025.

MC 161922 (Sub-II-1TA), filed May 10, 1982. Applicant: REXLOR TRANSPORT, P.O. Box 13, Upper Sandusky, OH 43351. Representative: Jack L. Schiller, 123-60 83rd Ave., Kew Gardens, NY 11415. *Contract; irregular:* (1) *steel products* from the facilities of Interior Steel, at or near Cleveland, OH, to the facilities of Steel Products, Inc., at or near Rockville, MD; (2) *raw fiberglass* between the facilities of Owens-Corning, Inc., at or near Jackson, TN, on the one hand, and, on the other, the facilities of the Budd Company, at or near Van Wert, OH; (3) *fiberglass automotive and truck parts* between the facilities of the Budd Company, at or near Carey, OH, on the one hand, and, on the other, the facilities of General Motors Corp., at or near Bowling Green, KY, and the facilities of Ford Motor Company, at or near Louisville, KY; and (4) *business machine cases* between the facilities of the Budd Company, at or near Carey, OH, on the one hand, and, on the other, the facilities of International Business Machines, Inc., at or near Lexington, KY; under account in (1) with Steel Products, Inc. of Rockville, MD, and in (2), (3) and (4) the Budd Co., of Madison Heights, MI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Steel Products, Inc., P.O. Box 1683, Rockville, MD and The Budd Co., 32055 Edward Ave., Madison Heights, MI 48701.

MC 152672 (Sub-II-11TA), filed May 13, 1982. Applicant: A. ROGER LEASING, LTD., P.O. Box 836, Coraopolis, PA 15108. Representative: Barry Weintraub. Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. *Contract: Irregular: such commodities as are used in or dealt by supermarket chain stores* between Pittsburgh, PA and Youngstown, OH on the one hand, and,

on the other points in the U.S. (except AK & HI) under continuing contract with Giant Eagle Markets, Inc. and Tamarkin Company, Pittsburgh, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Giant Eagle Markets, Inc. and Tamarkin Co., 101 Kappa Dr., Ridc Park, Pittsburgh, PA 15238.

MC 161923 (Sub-II–1TA), filed May 10, 1982. Aplicant: DOYLE H. SHADDUCK, R.D. No. 1, Cogan Station, PA 17728. Representative: James D. Casale, 329 Market St., P.O. Box 1956, Williamsport, PA 17703. *Contract; irregular: Lumber* between the facilities of American Hardwood Industries, at Union City, PA, and Erie, PA, on the one hand and on the other, pts. in NY, OH, NJ, MD, DE, VT, and CT, for 270 days, under continuing contract(s) with American Hardwood Industries, Inc., a Division of Hammermill Paper Co., Erie, PA. Supporting shipper(s): American Hardwood Industries, Inc., a Division of Hammermill Paper Co., 1540 East Lake Rd., P.O. Box 1440, Erie, PA 16533.

MC 158613 (Sub-II–9TA), filed May 13, 1982. Applicant: TRICOR BUSINESS GROUP, INC., 1242 Tatamy Rd., Easton, PA 18042. Representative: Roger D. Hershman, 22 Olde Mill Run, Medford, NJ 08055. *Such commodities as are dealt in or used by manufacturers or distributors of machinery,* between pts. in PA; Syracuse and Buffalo, NY; Hudson, OH; Cedar Rapids, IA; Nitro, WV; Tulsa and Oklahoma City, OK; Columbia, SC; and Raleigh and Charlotte, NC, on the one hand, and, on the other, pts. in the U.S., for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: TRU-MATIC, Inc., Paradise Road, R.D. 2, Box 214, E. Stroudsburg, PA 18301; L. B. Smith, Inc., 2001 State Road; Camp Hill, PA 17011; Nazareth Machine Works; Rte. 191 North, East Bangor, PA; Arts Toy Co., Inc., 600 Main Street, Pen Argyl, PA.

MC 51518 (Sub 2–1TA), filed May 10, 1982. Applicant: VESELY BROS. Moving & STORAGE, INC., P.O. Box 455, Fayette City, PA 15438. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract; irregular: General commodities* between Fayette and Allegheny Countries, PA, on the one hand, and, on the other, points in PA, OH, MD and WV, under continuing contract(s) with Eastman Kodak Company of Rochester, NY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Eastman Kodak Co., 2400 Mt. Read Blvd., Rochester, NY 14650.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–14248 Filed 5–25–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice; Corrections

The following volumes were incorrectly published on May 7, 1982 under the non-fitness guidelines, and are being republished this issue to reflect that the following applications fall under the fitness standards.

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an applicant must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that application 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 upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 1, Members Parker, Chandler and Fortier.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 276–7326.

Volume No. OP1–79

Decided: April 30, 1982.

MC 38400 (Sub-9), filed April 23, 1982. Applicant: HITCHCOCK BROS., INC., Box 212, Canaan, CT 06018. Representative: C. Frank Hitchcock (same address as applicant).

MC 87231 (Sub-30), filed April 20, 1982. Applicant: BAY & BAY TRANSFER CO., INC., 7200 West 128th St., Savage, MN 55378. Representative: Pamela N. Merkle, 300 Roanoke Bldg., Minneapolis, MN 55402.

MC 99961 (Sub-5), filed April 26, 1982. Applicant: BIG CHIEF TRUCK LINES, INC., Rt. 1 Box 321–B, Lafayette, LA 70505. Representative: Ronald Marchand (same address as applicant).

MC 107010 (Sub-71), filed April 23, 1982. Applicant: BULK CARRIERS, INC., P.O. Box 423, Auburn, NE 68305. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501.

MC 108380 (Sub-112), filed April 23, 1982. Applicant: JOHNSTON'S FUEL LINERS, INC., 808 Birch St., Newcastle, WY 82701. Representative: Manuel Andrade, Jr., 770 Grant St., Suite 228, Denver, CO 80203.

MC 111941 (Sub-45), filed April 23, 1982. Applicant: PIERCETON TRUCKING COMPANY, INC., P.O. Box 233, Laketon, IN 46943. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491.

MC 111941 (Sub-46), filed April 27, 1982. Applicant: PIERCETON TRUCKING COMPANY, INC., P.O. Box 233, Laketon, IN 46943. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204–3491.

MC 115880 (Sub-6), filed April 27, 1982. Applicant: BROOKFIELD BUS SERVICE, INC., 3 Railroad Place, Maspeth, NY 11378. Representative: Arthur Wagner, 342 Madison Ave., New York, NY 10173.

MC 116710 (Sub-44), filed April 12, 1982. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., P.O. Box 6176, Bossier City, LA 71111. Representative: Claire M. Goldsworthy, 535 North 6th St., Baton Rouge, LA 70802.

MC 134970 (Sub-36), filed April 23, 1982. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, Highway 24 East, El Paso, IL 61738. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501.

MC 138861 (Sub-44), filed April 16, 1982. Applicant: C–LINE, INC., 303 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, NW., Suite 501, Washington, DC 20036.

MC 142601 (Sub-9), filed April 28, 1982. Applicant: CECO TRANSPORT, INC., 1400 Kensington Rd., Oak Brook, IL 60521. Representative: Daniel C. Sullivan, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601.

MC 148490 (Sub-18), filed April 21, 1982. Applicant: C. & N. EVANS TRUCKING COMPANY, INC., Route 2, Box 39 E, Stoneville, NC 27048–9630. Representative: Harry G. Grubbs (same address as applicant).

MC 148731 (Sub-7), filed April 26, 1982. Applicant: MINKEVITCH TRUCKING & HAULING, 6290 S. Holladay Blvd., Salt Lake City, UT 84121. Representative: Fred J. Minkevitch, Jr., (same address as applicant).

MC 150301 (Sub-20), filed April 20, 1982. Applicant: EQUITY TRANSPORTATION, COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503.

MC 151721 (Sub-5), filed April 23, 1982. Applicant: LAUFENBERG FEED & AGRIC–SERVICE, INC., Route 1, Box 90–A, Highland, WI 53543. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703.

MC 156690, filed April 26, 1982. Applicant: PIEDMONT, INC., 2706 Bartol Ave., Baltimore, MD 21209. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740.

MC 157230, filed April 23, 1982. Applicant: NERCON TRANSPORT, INC., 3972 Fond du Lac Road, Oshkosh, WI 54901. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Nenah, WI 54956.

MC 157280 (Sub-1), filed April 20, 1982. Applicant: DATIM, INC., 925 East Broadway, Madison, WI 53716. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Road, Madison, WI 53719.

MC 158621 (Sub-1), filed April 12, 1982. Applicant: BACHMAN TRANSPORT CORPORATION, 50 N. 4th St., P.O. Box 898, Reading, PA 19603. Representative: James F. Rehr (same address as applicant).

MC 159220 (Sub-2), filed April 26, 1982. Applicant: REFRIGERATED INTERNATIONAL CARGO HAULERS, INC., 1170 Niagara St., Buffalo, NY 14240. Representative: Charles H. White, Jr., 1019 19th Street NW., Suite 800, Washington, D.C. 20036.

MC 160290, filed April 26, 1982. Applicant: GERARD C. PETERS AND JOHN G. PETERS, d.b.a. PETERS BROS. TRUCKING, 4948 North Oakley Avenue, Chicago, IL 60625. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603.

MC 161641, filed April 23, 1982. Applicant: R AND P TRUCKING, INC., P.O. Box 1678, Covington, GA 30209. Representative: Virgil H. Smith, 74 Highway N. Box 245, Tyrone, GA 30290.

MC 161670, filed April 26, 1982. Applicant: DORIS J. PEAK, d.b.a. BLUE GOOSE CHARTER LEASING, 1004 E. Orangefair Lane, Anaheim, CA 92801. Representative: Donald R. Hedrick, P.O. Box 4334, Santa Ana, CA 92702.

MC 161680, filed April 26, 1982. Applicant: J. L. SHACKELFORD, 852 Holcombe Avenue, Mobile, AL 36606. Representative: J. L. Shackelford (same address as applicant).

MC 161690, filed April 26, 1982. Applicant: TIMBER PRODUCTS SALES CO., OREGON, LTD., P.O. Box 269, Springfield, OR 97501. Representative: Kerry D. Montgomery, 400 Pacific Bldg., 520 S. W. Yamhill St., Portland, OR 97204.

[FR Doc. 82–14244 Filed 5–25–82; 8:45 am]
BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the

compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP2–99

Decided: May 7, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 1423 (Sub-2), filed April 21, 1982. Applicant: MELNI BUS SERVICE, INC., 29 River Road, Chatham, NJ 07928. Representative: Jeremy Kahn Suite 733 Investment Bldg., 1511 K Street, NW., Washington, D.C. (202) 783–3525. Transporting *passengers and their baggage,* in round trip and charter operations, beginning and ending at points in Morrris, Essex, Union, Middlesex, and Somerset Counties, NJ and extending to points in the U.S., (except AK, CT, HI, MD, MA, NY, DC, and those points in PA on and east of the Susquehanna River).

MC 120092 (Sub-8), filed April 26, 1982. Applicant: JENNEY FREIGHT LINE, INC., 1224 N. Main Ave., Tucson, AZ 85705. Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008, (602) 275–3124. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), serving points in Maricopa, Pima, Cochise, Graham, Gila and Pinal Counties, AZ, and Grant County, NM, as off-route points in connection with carrier's otherwise authorized regular route operations.

MC 141792 (Sub-2), filed April 26, 1982. Applicant: N & N TRUCKING, INC., P.O. Box 80, Belk, AL 35545. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205, (601) 948–8820. Transporting (1) *lumber* and *wood products,* and (2) *building materials* between points in the U.S. (except AK and HI), under a continuing contract(s) with Georgia-Pacific Corporation, of Crossett, AR.

MC 142452 (Sub-8), filed April 26, 1982. Applicant: RIMAR TRANSPORT, INC., 827 Ridgewood Avenue, North Brunswick, NJ 08902. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue, NW, Suite 500, Washington, DC 20006, (202) 828–5015. Transporting (1) *metal products* (2) *machinery* and (3) *those commodities* which because of their size or weight require the use of special handling or equipment, between those points in the U.S., in the east of MN, IA, MO, OK, and TX.

MC 142512 (Sub-1), filed April 1, 1982. Applicant: OCEAN BREEZE TRANSIT CO., 1812 Marmora Ave., Atlantic City, NJ 08401. Representative: Brian S. Stern, 5411–D Backlick Rd., Springfield, VA 22151, (703) 941–8200. Transporting *passengers and their baggage,* in the same vehicle with passengers (1) in special and charter operations, beginning and ending at points in Ocean, Burlington, Gloucester, and Salem Counties, NJ, and extending to these points in the U.S., in and east of MN, IA, MO, AR, and LA, and (2) in special operations, beginning and ending at points in Atlantic, Cape May, and Cumberland Counties, NJ, and extending to those points in the U.S., in and east of MN, IA, MO, AR, and LA.

MC 145603 (Sub-6), filed April 20, 1982. Applicant: B & H TRUCKING CO., INC., 570 W. 17th Street, Indianapolis, IN 46204. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *food and related products* between points in Harrison County, MS, Galveston, County, TX, Charleston County, SC, and Hillsborough County, FL, on the one hand, and, on the other, points in IN.

MC 147712 (Sub-42), filed April 20, 1982. Applicant: MID–WESTERN TRANSPORT, INC., 14625 Carmenita Road, Norwalk, CA 90650. Representative: Joseph Fazio, (same as applicant), (213) 921–7474. Transporting *general commodities,* (except classes A and B explosives, household goods and commodities in bulk), and between points in the U.S., under continuing contract(s) with Seymour Housewares Co., Division of Lear Siegler, Inc., of Seymour, IN.

MC 151612 (Sub-1), filed April 20, 1982. Applicant: U.S. SALT-JOHNSON ENTERPRISES, INC., 1020 Black Dog Road, Burnsville, MN 55337. Representative: Samual Rubenstein, Box 5, Minneapolis, MN 55440, (612) 542–1121. Transporting: (1) *chemicals and related products* between points in the U.S. (except AK and HI) under continuing contract(s) with American Salt Company of Kansas City, MO, and Independent Salt Company, of Kanopolis, KS, and (2) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. except AK and HI), under continuing contract(s) with Domtar Industries, Inc., Sifto Salt Division of Schiller Park, IL.

MC 160952 (Correction), filed March 10, 1982, published in the **Federal Register,** issue of April 14, 1982, and republished, as corrected, this issue. Applicant: CARNIVAL BUS CO., INC., 6812 Fifth Ave., Brooklyn, NY 11220. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239–4610. Transporting: *passengers and their baggage, in the same vehicle with passengers,* beginning and ending at New York, NY, and its commercial zone, and extending to points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to correct the territorial description.

Volume No. OP2–100

Decided: May 10, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 40073 (Sub-2), filed April 13, 1982. Applicant: C & D TRANSPORTATION COMPANY, INC., 200 Whitehall St., Providence, RI 02909. Representative: Thomas A. Tarro III, 376 Broadway, Providence, RI 02909, 401–272–0487. Transporting: *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in RI, CT, and MA.

MC 117872 (Sub-14), filed April 30, 1982. Applicant: A. JOSEPH AND COMPANY, P.O. Box 4798, Jackson, MS 39216. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting: *malt beverages,* and *such commodities* as are used in and dealt in by breweries, between points in Jefferson County, CO, on the one hand, and, on the other, points in AR, LA, TN and TX.

MC 149323 (Sub-1), filed February 11, 1982, published in the **Federal Register** issue of April 5, 1982, and republished, as corrected, this issue. Applicant: BINGHAM TRANSPORTATION, INC., 2005 E. Ave., Baxter Springs, KS 66713. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KA 66612, 913–233–9629. Transporting: *such commodities* as are transported in dump vehicles (1) between points in KS, OK, CO, TX, MO, IA, NE, AR, LA, and IL, and (2) between points in KS, OK, CO, TX, MO, IA, NE, AR, LA, and IL, on the one hand, and, on

the other, points in the U.S. (except MT, ID, AZ, VA, AK, HI, WA, and OR). The purpose of this republication is to correct the commodity description.

MC 156342, filed Aprill 30, 1982. Applicant: REX LONG, d.b.a. R. L. TRUCKING, Rt, 10, Box 458, Moore, OK 73165. Representative: William P. Parker, P.O. Box 54657, Oklahoma City, OK 73154, (405) 424–3301. Transporting *metal products and machinery,* between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161473, filed April 20, 1982. Applicant: KINGSGATE TRAVEL, 5600 Andover Dr., Dayton, OH 45449. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at points in OH on and south of U.S. Hwy 224 and on and west of U.S. Hwy 23, and extending to points in the U.S. (except AK and HI).

MC 161582, filed April 20, 1982. Applicant: JOHNSON BUS SERVICE, 4500 S St., Beaver Heights, MD 20743. Representative: Clifford Johnson (same address as applicant), 301–773–5534. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between Washington, DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume, No. OP2–102

Decided: May 14, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 32122 (Sub-8), filed April 29, 1982. Applicant: PAZEN TRANSFER LINES, INC., P.O. Box 243, Waukau, WI 54980. Representative: Edward J. Gerrity, P.O. Box 914, Appleton, WI 54912, 414–734–5608. Transporting (1) *pulp, paper and related products.* between points in Outagamie County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *lumber and wood products,* between points in Winnebago County, WI, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN and TX, and (3) *furniture and fixtures,* between points in AL, AR, GA, IL, IN, IA, KS, MN, MO, MS, NC, OH, SC, TN and TX, on the one hand, and, on the other, points in Adams, Brown, Calumet, Columbia, Dane, Dodge, Door, Fond Du Lac, Forest, Green Lake, Jefferson, Juneau, Kenosha, Kewaunee, Langlade, Lincoln, Manitowoc, Marinette, Marathon, Marquette, Menominee, Milwaukee, Oconto, Oneida, Outagamie, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Shawano, Sheboygan, Walworth, Waukesha, Waupaca, Washington, Winnebago and Wood Counties, WI.

MC 75692 (Sub-2), filed May 3, 1982. Applicant: HALBERT BROTHERS, INC., 2116 Sacramento St., Los Angeles, CA 90021. Representative: Fred H. Mackensen, 2029 Century Park East, Suite 4150, Los Angeles, CA 90067, 213–879–5955. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA.

MC 102162 (Sub-8), filed May 4, 1982. Applicant: RED ARROW HEAVY HAULING, INC., 3901 Seguin Rd., Box 1897, San Antonio, TX 78297. Representative: Arnold L. Burke, 180 North LaSalle St., Suite 3520, Chicago, IL 60601, 312–332–5106. Transporting (1) *earth drilling equipment,* (2) *machinery,* (3) *Mercer commodities,* (4) *metal and metal products,* (5) *pipe,* (6) *transportation,* and (7) *those commodities which because of their size or weight require the use of special handling or equipment,* between points in TX. Condition: Issuance of this Certificate is subject to prior or coincidental cancellation of applicant's written request of Certificates of Registration No. MC–102162 (Sub-3), issued January 26, 1966, Sub-5, issued June 27, 1975, and Sub-6, issued October 6, 1976.)

MC 129263 (Sub-9), filed April 28, 1982. Applicant: SUN MOTOR LINES, INC., P.O. Box 32546, Oklahoma City, OK 73123. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting *general commodities* (except Classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with (a) U.S. Brass Corporation, of Plano, TX, (b) Capital Waire and Cable Corporation, of Plano, TX, (c) Chattanooga Glass, of Chattanooga, TN, (d) Joseph Schlitz Brewing Company, of Milwaukee, WI and (e) Overhead Door Corporation, of Dallas, TX and its divisions and subsidiaries.

MC 141753 (Sub-1), filed April 19, 1982. Applicant: G. P. SULLIVAN COMPANY, 1808 South Laramie Ave., Cicero, IL 60650. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *such commodities* as are dealt in or used by retail department stores, mail order business houses, and wholesale merchandisers of home furnishings, between points in IL, IN, and WI.

MC 145622 (Sub-5), filed April 28, 1982. Applicant: S & H TRANSPORTATION, INC., P.O. Box 137, Wright City, MO 63390. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105, 816–221–1464. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contracts with Aldi, Inc., of Batavia, IL.

MC 150852 (Sub-4), filed April 15, 1982. Applicant: SKYLINE TRANSPORT, INC., 1469 W 6720SS, West Jordan, UT 84084. Representative: R. G. Simonian (same address as applicant), (801) 266–8800. Transporting (1) *chemical, hazardous, toxic and low-level radioactive wastes,* and (2) *chemicals and related products,* (a) between points in Salt Lake County, UT, on the one hand, and, on the other, points in Los Angeles, Orange, San Bernadino and King Counties, CA, (b) between points in Los Angeles, Orange, San Bernado, Alameda and Contra Costa Counties, CA, on the one hand, and, on the other, points in Salt Lake and Davis Counties, UT, and (c) between points in Fairfield County, CT, on the one hand, and, on the other, points in Salt Lake and Davis Counties, UT.

MC 153723 (Sub-10), filed April 28, 1982. Applicant: A & M ENTERPRISES, INC., P.O. Box 884, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, 501–521–8121. Transporting *wire, plastic and metal products,* between points in Benton and Washington Counties, AR, and Noble County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and *tape and wire recorders,* between Portsmouth, VA, and points in Pulaski County, AR, Caddo Parish, LA, Jefferson County, KY, Howard County, MD, Tulsa and Oklahoma Counties, OK, Bexar, Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153773 (Sub-1), filed April 28, 1982. Applicant: NDC TRUCKING COMPANY, 820 McKesson Dr., Longview, TX 75061. Representative: Wiliam Sheridan, P.O. Drawer 5049, Irving, TX 75062, 214–255–6279. Transporting *foodstuffs and related products,* between points in Gregg County, TX, and Shelby County, TN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, WY, CO and NM.

MC 161253, filed March 29, 1982. Applicant: W.D.C., INC., 3580 Fisher Rd. Columbus, OH 43228. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215, 614–464–4103. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between Columbus, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161713, filed April 28, 1982. Applicant: CREATIVE TOURS, INC., 5407 Excelsior Blvd., St. Louis Park, MN 55416. Representative: Stanley C. Olsen, Jr., 5200 Wilson Rd, Suite 307, Edina, MN 55424, 612–927–8855. As a broker, at Minneapolis, MN, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in round-trip charter and special operations, beginning and ending at points in MN and extending to points in the U.S.

Volume No. OP2–105

Decided: May 18, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 135812 (Sub-6), filed May 6, 1982. Applicant: PROFESSIONAL DRIVER SERVICES, INC., 1631 Lebanon Rd., Nashville, TN 37210. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202, 502–589–5400. Transporting *transportation equipment*, between points in the U.S. (except AK and HI).

MC 138762 (Sub-56), filed April 22, 1982. Applicant: MUNCIPAL TANK LINES LIMITED, P.O. Box 3500, Calgary, Alberta, Canada T2P 2P9. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59401, 406–452–6415. Transporting *nonmetallic minerals*, between ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in NY and VT.

MC 144843 (Sub-7), filed April 30, 1982. Applicant: GRACE DISTRIBUTION SERVICES, INC., P.O. Box 308, Ducan, SC 29334. Representative: Paul M. Daniell, 235 Peachtree Street NE., 1200 Atlanta Gas Light Tower Atlanta, GA 30303, 404–522–2322. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with United Forwarding, Inc., of Omaha, NE.

MC 145042 (Sub-17), filed April 27, 1982. Applicant: ZEELAND FARM SERVICES, INC., 2468 84th Ave., Zeeland, MI 49464. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933, 517–482–2400. Transporting *fertilizer and fertilizer materials*, between points in MI, WI, IL, IN, and OH.

MC 145723 (Sub-2), filed April 29, 1982. Applicant: H & M. TRUCKING CO., Box 173, Clinton, IL 61727. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, 217–544–5468. Transporting *chemicals, paper products, and printed matter*, between points in the U.S. (except AK and HI), under continuing contract(s) with Wallace Computer Services, Inc., of Clinton, IL.

MC 145773 (Sub-19), filed May 6, 1982. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *food and related products*, between points in WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146872 (Sub-4), filed April 26, 1982. Applicant: CHARLES SEATON, d.b.a. SEATON TRUCKING COMPANY, 1560 North Sandburg Village, Chicago, IL 60610. Representative: Joel H. Steiner, 29 South LaSalle, Suite 905, Chicago, IL 60603, 312–236–9375. Transporting *scrap materials and paper board*, between points in AR, IL, IN, IA, KY, MI, MO, OH, TN, and WI.

MC 147933 (Sub-4), filed May 3, 1982. Applicant: JOHN H. BRYANT, d.b.a. J. B. TRANSPORTATION, 714 Pine Ct. Martinez, CA 94553. Representative: Richard E. Macey, 2111 W. March Ln., A–3, Stockton, CA 95207, 209–951–8227. Transporting *petroleum products and hot wax*, between points in Contra Costa, Marin, and Los Angeles Counties, CA, on the one hand, and, on the other, Phoenix, AZ, under continuing contract(s) with Nelson Candles, Inc., of Phoenix, AZ.

MC 148562 (Sub-3), filed May 6, 1982. Applicant: UNIVERSITY CORP., P.O. Box 2339, Columbus, OH 43216. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152383 (Sub-5), filed April 20, 1982. Applicant: C.C.M. ENTERPRISES, INC., Suite 40, 27 Produce Dr., Cincinnati, OH 45202. Representative: John R. Mateyko (same address as applicant) 513–621–7568. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of insulation, between points in IN and OH, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 152593 (Sub-2), filed May 6, 1982. Applicant: MARTY'S AUTO SERVICE, INC., 314 S.E. 10th St., Dania, FL 33004. Representative: Richard B. Austin, 320 Rochester Bldg., 8390 N.W. 53rd St., Miami, FL 33166, (305) 592–0036. Transporting *used motor vehicles*, between points in FL, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, MD, MA, NJ, NY, NC, PA, RI, SC, VA and DC.

MC 153003 (Sub-3), filed May 7, 1982. Applicant: OKLAHOMA INTERSTATE LINES, INC., 1508 North 32nd St., P.O. Box 1372, Muskogee, OK 74401. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103, (901) 676–5600. Transporting *building materials, metal products, commodities which because of their size or weight require the use of special handling or equipment, and self propelled vehicles weighing more than 15,000 pounds*, between points in AL, AR, CA, CO, GA, IA, IN, IL, KS, KY, LA, MS, MI, MN, MO, NE, NM, NV, OH, OK, PA, TN, TX, UT, and WY.

MC 153092 (Sub-1), filed May 3, 1982. Applicant: RICHARD F. DeMORANVILLE, d.b.a. DeMo TRUCKING, Bedford St., Lakeville, MA 02346. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108, 617–742–3530. Transporting *lumber and wood products*, between points in MA, RI, and CT, on the one hand, and, on the other, points in NY, NJ, PA, MD, DE, NC, VA, and WV.

MC 153273 (Sub-6), filed May 4, 1982. Applicant: SCHREIBER TRANSIT, INC., 425 Pine St., Green Bay, WI 54305. Representative: John H. Sage (same address as applicant), (414–437–7601. Transporting *food and related products*, between points in AZ, CA, and UT, under continuing contract(s) with Safeway Stores, Incorporated, of Oakland, CA.

MC 155123 (Sub-1), filed May 6, 1982. Applicant: HIGHTOWER TRUCKS, INC., Highway 61 West, Fort Madison, IA 52627. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *agricultural insecticides, fertilizer, weed killing compounds, and hand spreaders*, between points in Lee County, IA, on the one hand, and, on the other, points in IL, MN, MO, and WI.

MC 155583 (Sub-1), filed April 29, 1982. Applicant: S & S ENTERPRISES, P.O. Box 94, Audubon, NJ 08106. Representative: Edward Rodig, 516 W.

Grainsbury Ave., Audubon, NJ 08106, 609–547–1609. Transporting *mobile homes,* between points in NJ, DE, MD, PA, VA, OH, NC, SC, GA, KS, TN, FL, and KY.

MC 155733 (Sub-1), filed April 22, 1982. Applicant: TRAIL BLASERS, INC., 7990 Overland Rd., Boise, ID 83709. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, 208–343–3071. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with (a) A.S.C. Constructors, Inc., and (b) Southwest Hide Co., both of Boise, ID.

MC 158793, filed May 4, 1982. Applicant: DR. CULLY'S CARTAGE CO., INC., 332–Clubhouse Lane, Hunt Valley, MD 21031. Representative: Glenn M. Heagerty (same address as applicant), 301–666–0140. Transporting *general commodities* (except classes A and B explosives, households goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with (1) McCormick & Co., Inc., (2) Dr. Cully's Depot, Inc., both of Hunt Valley, MD, (3) Random House, Inc., of Westminister, MD, and (4) Noxell Corporation, of Baltimore, MD.

MC 160083, filed May 6, 1982. Applicant: WAC TRANSPORTATION, INC., 6900 Nelson Rd., P.O. Box 1902, Fort Wayne, IN 46801. Representative: Andrew K. Light, 1301 Merchants Plaza, Indianapolis, IN 46204, (317) 638–1301. Transporting general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in Allen County, IN, on the one hand, and on the other, points in IL, IN, KY, MI, and OH.

MC 161833, filed May 4, 1982. Applicant: MARSON TRUCKING CO., 317A Leroy Ave., Molalla, OR 97038. Representative: Jeff Marson (same address as applicant), 503–829–2700. Transporting *forest products and coal and coal products,* between points in OR, on the one hand, and, on the other, points in WA and CA.

Volume No. OP3–078

Decided: May 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF–595, filed May 10, 1982. Applicant: TRIPAR TRANSPORTATION, INC., 1608 The Queensway, Toronto, Ontario, Canada M8Z IV6. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167, (313) 349–3980. As a *freight forwarder* transporting *general commodities* (except classes A and B explosives), between points in CT, MA, NJ, NY, and RI, on the one hand, and, on the other, points in NY.

MC 17095 (Sub-3), filed May 12, 1982. Applicant: DARNALL TRUCK SERVICE, INC., P.O. Drawer 1346, Great Bend, KS 67530. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601, (913) 234–0565. Transporting *Mercer commodities,* between points in AZ, CO, KS, NE, NM, OK, TX, and WY.

MC 52525 (Sub-13), filed May 10, 1982. Applicant: IOWA VAN & STORAGE CO., 541 S. Iowa Ave., Ottumwa, IA 52501. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *general commodities* (except household goods and classes A and B explosives), between points in Appanoose County, IA, on the one hand, and, on the other, points in Polk and Wapello Counties, IA.

MC 52914 (Sub-7), filed May 6, 1982. Applicant: F T L, INC., P.O. Box 10799, Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OR and WA.

MC 102764 (Sub-12), filed May 11, 1982. Applicant: ABC, INC., 24 Plymouth Rd., North Providence, RI 02940. Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781–8205. Over regular routes, transporting *passengers and their baggage* and *express and newspapers* in the same vehicle with passengers, between Providence, RI and Boston, MA, serving all intermediate points: from Providence over Interstate Hwy 95 to junction MA Hwy 128, then over MA Hwy 128 to junction of the Southeast Expressway, then over the Southeast Expressway to Boston, MA, and return over the same route.

MC 123535 (Sub-41), filed May 5, 1982. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 2275 Schuetz Road, St. Louis, MO 63141. Representative: Donald S. Helm (same address as applicant) (314) 569–1161. Transporting *non ferrous metals* and *scrap non ferrous metals* between points in the U.S., under continuing contract(s) with Monarch Metals, Inc., of Toledo, OH.

MC 125535 (Sub-42), filed May 10, 1982. Applicant: NATIONAL SERVICE LINES, INC. OF NEW JERSEY, 2275 Schuetz Road, St. Louis, MO 63141. Representative: Donald S. Helm (same address as applicant), (314) 569–1169. Transporting *ferrous and non ferrous metals,* between points in the U.S. (except AK and HI), under continuing contract(s) with Metals, Inc., of Haleyville, AL.

MC 126844 (Sub-100), filed May 6, 1982. Applicant: R.D.S. TRUCKING CO., INC., 1713 N. Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154.Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 128075 (Sub-45), filed May 12, 1982. Applicant: JOHNSRUD TRANSPORT, INC., 5301 Northeast 17th St., Des Moines, IA 50313. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Interbake Foods, Inc., of Richmond, VA.

MC 133035 (Sub-29), filed May 6, 1982. Applicant: DILTS TRUCKING, INC., Route 1, P.O. Box 156, Crescent, IA 51526. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106, (402) 392–1200. Transporting *fertilizers,* between points in Jackson County, MO, on the one hand, and, on the other, points in KS, NE, and IA.

MC 133545 (Sub-9), filed May 11, 1982. Applicant: LEMONS HOUSE MOVING, INC., 1250 Houston Rd., Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *buildings* and *building materials,* (1) between points in MT, on the one hand, and, on the other, points in ND; and (2) between points in UT, on the one hand, and, on the other, points in AZ, CA, ID, and NM.

MC 134064 (Sub-55), filed May 10, 1982. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30505. Representative: Charles M. Williams (same address as applicant), (303) 839–5856. Transporting (1) *salt and salt products,* (2) *food and related products,* and (3) *such commodities* as are dealt in or used by grocery and food business houses, food service companies, restaurants, and restaurant suppliers, (except commodities in bulk), between points in the U.S. (except AK and HI).

MC 134534 (Sub-13), filed May 10, 1982. Applicant: BASTERRECHEA DISTRIBUTING, INC., P.O. Box 485, Gooding, ID 83330. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701, (208) 336–5955. Transporting (1) *such commodities* as are dealt in by

grocery and food business houses, between points in ID and those in Salt Lake County, UT, on the one hand, and, on the other, points in AZ, CA, CO, ID, OR and WA: and (2) *food and related products,* between points in Lake County, OR, on the one hand, and, on the other, points in CA, NV, UT and WA.

MC 140484 (Sub-108), filed May 10, 1982. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant), (813) 334–4517. Transporting *food and related products,* between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141094 (Sub-13), filed May 11, 1982. Applicant: ACME TRUCKING, INC., 109 E. Main St., Newark, OH 43055. Representative: Frank L. Calvary, 3066 No. Star Rd., Columbus, OH 43221, (614) 459–4248. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 143565 (Sub-6), filed May 13, 1982. Applicant: HIGHWAY TRANSPORTATION COMPANY, Route 2, Freedom Park, Hermon, ME 04401. Representative: Durward L. Humphrey (same address as applicant), (207) 848–3314. Transporting *lumber and wood related by products,* between points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, PA, OH, WV, VA, SC, NC, FL, GA, AL, KY, IN, MI, WI, IL, TN, MS, TX, LA, AR, MO, IA, MN and DC.

MC 144514 (Sub-2), filed May 10, 1982. Applicant: J & M ENTERPRISES, LTD, 5300 Hubbell, P.O. Box 3145, Des Moines, IA 50316. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *meats, meat products, and meat byproducts,* and *articles distributed by mean packinghouses* (except commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Armour Food Company, of Phoenix, AZ.

MC 146145 (Sub-7), filed May 10, 1982. Applicant: TOWER TRANSPORT, INC., 2933 So. Cicero Ave., Cicero, IL 60650. Representative: Edward G. Bazelon, 29 So. LaSalle St., Chicago, IL 60603, (312) 236–9375. Transporting *food and related products,* (a) between those points in the east of ND, SD, NE, CO, OK and TX, and (b) between points in CA, on the one hand, and, on the other, those points in the east of ND, SD, NE, CO, OK and TX.

MC 146985 (Sub-19), filed May 10, 1982. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 S. Main St., P.O. Box 1614, Elkhart, IN 46515. Representative: Phillip A. Renz, Suite 200, Metro Bldg. Fort Wayne, IN 46802, (219) 293–3863. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Heublein, Inc., of Hartford, CT.

MC 147644 (Sub-13), filed May 14, 1982. Applicant: J.M.C. TRANSPORT, INC., 1719 Potters Lane, Jeffersonville, TI 47130. Representative: Gerald K. Gimmel, 444 N. Frederick Ave., Suite 200, Gaithersburg, MD 20877, (301) 840–8565. Transporting *alcoholic beverages,* between points in IL, on the one hand, and, on the other, points in TX, LA, AR, and AZ.

MC 147644 (Sub-14), filed May 14, 1982. Applicant: J. M. C. TRANSPORT, INC., 1719 Potters Lane, Jefferson, IN 47130. Representative: Gerald K. Gimmel, 444 N. Frederick Ave., Suite 200, Gaithersburg, MD 20877, (301) 840–8565. Transporting *wine and brandies,* between points in CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148445 (Sub-13), filed May 7, 1982. Applicant: WLD TRUCKING COMPANY, a corporation, 4527 N. 16th St., Phoenix, AZ 85064. Representative: Phil A. Hammond, 3003 N. Central, Suite 2201, Phoenix, AZ 85012, (602) 266–2224. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148965 (Sub-4), filed May 10, 1982. Applicant: CLARK BROS. TRANSPORTATION, INC., 1808 North 30th Street, Birmingham, AL 35234. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 150255 (Sub-5), filed May 10, 1982. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone St., Denver, CO 80211. Representative: John T. Wirth, Suite 2600, Petro-Lewis Tower, 717 17th St., Denver, CO 80202, (303) 892–6700. Transporting *computers, computer parts, accessories and supplies,* between points in the U.S. (except AK and HI), under continuing contract(s) with Storage Technology Corporation of Louisville, CO.

MC 150255 (Sub-6), filed May 12, 1982. Applicant: LEPRINO TRANSPORTATION COMPANY, 3740 Shoshone St., Denver, CO 80211. Representative: John T. Wirth, Suite 2600, Petro-Lewis Tower, 717 17th St., Denver, CO 80202, (303) 892–6700. Transporting *malt beverages,* between points in the U.S. (except AK and HI), under continuing contract(s) with Murray Bros. Distributing Company, of Denver, CO.

MC 152244 (Sub-5), filed May 3, 1982. Applicant: TOTE, INC., Box 538, Salem, SD 57058. Representative: Clifford Tjaden (Same address as applicant), (605) 425–2107. Transporting *general commodities* (except classes A and B explosives, and household goods between points in SD, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152634 (Sub-3), filed May 10, 1982. Applicant: ATLANTIC VAN LINES, INC., 1205 S. Carey St., Baltimore, MD 21230. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740; (301) 797–6060. Transporting *office, business and electronic data processing machinery and equipment,* between Baltimore, MD, on the one hand, and, on the other, points in MD, WV, VA, DE, PA and DC.

MC 152775 (Sub-7), filed May 13, 1982. Applicant: RAM ROD TRUCKING, INC., P.O. Box 1127, Marrero, LA 70073. Representative: Donald B. Morrison, P.O. Box 22628; Jackson, MS 39205; (601) 948–8820. Transporting *building materials,* between points in the U.S., under continuing contract(s) with Associated Dealers Supply of Metairie, LA.

MC 154054 (Sub-1), filed April 5, 1982. Applicant: WOOD BROS, TRANSFER, INC., 2410 Commerce, Houston, TX 77014. Representative: Damon R. Capps, 1300 Main St., Suite 1230, Houston, TX 77002, (713) 658–8101. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OK, NM, TX, LA, and AR.

MC 157514, filed February 16, 1982, and previously noticed in the **Federal Register** issue of March 2, 1982. Applicant: WILLIAM A. SMITH, 308 E. Maumee, Adrian, MI 49221. Representative: James R. Neal, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 482–2400. Transporting *food and related products,* (1) between points in Hillsdale County, MI, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, VT, VA and WV and (2) between points in Suffolk County, MA, on the one hand, and, on

the other, points in IL, IN, MI, OH and WI.

Note.—The purpose of this republication is to correctly reflect the territorial descriptions.

MC 160664, filed May 10, 1982. Applicant: REDWAY CONTRACT CARRIER CORPORATION, 500 Industrial Lane, Prairie View, IL 60069. Representative: Paul J. Maton, 10 S. LaSalle St., Rm. 1620; Chicago, IL 60603; (312) 332–0905. Transporting *food products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ocean Spray Cranberries, Inc., of Kenosha, WI.

MC 160785 (Sub-2), filed May 11, 1982. Applicant: CASTAR TRUCKING, 7840 "F" St., Omaha, NE 68127. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of machinery and communication equipment, between Omaha, NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 160955, (Sub-1), filed May 10, 1982. Applicant: PET POULTRY PRODUCTS, INC., Market St., P.O. Box 128, Bridgeville, DE 19933. Representative: Ellwood L. Hunsberger, P.O. Box 232, Bridgeville, DE 19933, (302) 349–5345. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Delagra Corp. of Bridgeville, DE.

MC 160975, filed May 13, 1982. Applicant: KUHLMAN BROS., INC., W. 245 Park Lane, Post Falls, ID 83854. Representative: Ronald J. Kuhlman, E. 3520 16th, Post Falls, ID 83854, (208) 773–9853. Transporting *treated and untreated poles and piling*, between ports of entry on the International Boundary line between the U.S. and Canada in WA, ID, MT, and ND, on the one hand, and, on the other, points in WA, ID, MT, ND, SD, NE, WY, CO, UT, AZ, NV, NM, OR, and CA, under continuing contract(s) with B. J. Carney & Co., Ltd. of Spokane, WA.

MC 161935, filed May 10, 1982. Applicant: KNAPP OIL CO. TRANSPORTS, INC., Drawer 2, Xenia, IL 62899. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *petroleum products*, between points in Posey County, IN and Cape Girardeau County, MO, on the one hand, and, on the other, points in that part of IL on and south of U.S. Hwy 50.

MC 161944, filed April 29, 1982. Applicant: ELIZABETH A. HUMPHREY, d.b.a. NOVEMBER TRANS., Rt. 2 Box 140 AA Canaan Rd., Hampden, ME 04444. Representative: (same as above), (207) 862–4693. Transporting (1) *foodstuffs and by-products*, between points in the U.S., under continuing contract(s) with Potato Service, of Presque Isle, ME; and (2) *pulp, paper, and by-products*, between points in the U.S., under continuing contract(s) with Lincoln Pulp & Paper, of Lincoln, ME.

MC 161945, filed May 10, 1982. Applicant: TRANS-MIDWEST, INC., 1750 So. Greeley, Stillwater, MN 55082. Representative: Val M. Higgins, 1600 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333–1341. Transporting *petroleum, natural gas and their products*, between points in the U.S., (except AK and HI), under continuing contract(s) with Croix Oil Co. of Stillwater, MN.

MC 161965, filed May 12, 1982. Applicant: BULK PETROLEUM HAULERS INC., 246 S. Grand St., Hammonton, NJ 08037. Representative: John F. Brancato, Sr., 707 Moss Mill Rd., Hammonton, NJ 08037, (609) 561–6646. Transporting *petroleum products*, between Hammonton, NJ, and points in PA and DE.

MC 161994, filed May 13, 1982. Applicant: BANJO & BUS, INC., 9100 Harold Dr., St. Louis, MO 63134. Representative: Richard Haberstroh (same address as applicant), (314) 423–8342. As a *broker*, at St. Louis, MO, in arranging for the transportation of *passengers and their baggage*, in the same vehicle with passengers, beginning and ending at St. Louis, MO, and extending to points in Carroll County, AR.

MC 146965 (Sub-4), filed April 13, 1982, previously noticed in the **Federal Register** on April 27, 1982. Applicant: REDDING LUMBER TRANSPORT, INC., P.O. Box 3306, Redding, CA 96049. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055; (206) 235–1111. Transporting (1) *forest products*, (2) *lumber and wood products*, (3) *building materials*, (4) *roofing*, (5) *awning* and *coils*, (6) *hot wagons*, and (7) *roofing machinery*, between points in AR, AZ, CA, CO, ID, KS, LA, MT, NC, ND, NM, NV, OK, OR, SD, UT, WA, WI, TX, and WY.

Note.—This republication shows TX, in the territorial description.

Volume No. OP4–177

Decided: May 14, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF–596, filed May 10, 1982. Applicant: DIRECT CONTAINER LINE, INC., 16225 Sth. Broadway, Gardena, CA 90248. Representative: Abraham A. Diamond, 29 South La Salle St., Chicago, IL 60603, (312) 236–0548. As a freight forwarder, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., on the one hand, and, on the other, ports of entry on the International Boundary lines between the U.S. and Canada, and between the U.S. and the Republic of Mexico.

MC 96877 (Sub-10), filed May 6, 1982. Applicant: YUMA COUNTY TRANSPORTATION CO., P.O. Box 488, Grand Island, NE 68801. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501, (515) 682–8154. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CO, IA, KS and NE, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 108587 (Sub-35), filed April 28, 1982, previously noticed in the **Federal Register** issue of May 11, 1982, and republished this issue.* Applicant: SCHUSTER EXPRESS, INC., 48 Norwich Ave., Colchester, CT. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. NW., Washington, DC 20005, (202) 783–3525. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Boston and Springfield, MA, on the one hand, and, on the other, points in Cumberland Androscoggin; Oxford, Kennebec, Sagadahoc, Lincoln, Knox, Franklin, Waldo, and York Counties, ME, and points in VT. Note: Applicant intends to tack this authority with its existing authority at Boston and Springfield, MA.

MC 121597 (Sub-7), filed May 10, 1982. Applicant: CHICKASAW MOTOR LINE, INC., 531 Woodycrest Ave., P.O. Box 100904, Nashville, TN 37210. Representative: James Clarence Evans, 1800 Third National Bank Bldg., Nashville, TN 37219, (615) 244–1440. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Hardeman County, TN, and points in the U.S. (except AK and HI). NOTE: Applicant states it intends to tack this authority with its existing authority. Applicant also seeks to cancel its Certificates of Registration in MC–121597 and MC–121597 Sub 4, to a Certificate of Public Convenience and Necessity.

MC 123476 (Sub-79), filed May 10, 1982. Applicant: CURTIS TRANSPORT, INC., #23 Grandview Ind. Ct., Arnold,

*The purpose of this republication is to include the Note concerning applicant's intent to tack.

MO 63010. Representative: David G. Dimit (same address as applicant), (314) 464–1300. Transporting *paper and paper products*, between St. Louis, MO, and points in Franklin County, MO, on the one hand, and, on the other, points in AR, MO, IA, MN, WI, IL, IN, MI, KY, TN, VA, WV, OH, PA, MD, NY, NJ, NC, and DE.

MC 128837 (Sub-50), filed May 10, 1982. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael, W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Heinz USA, Division of H. J. Heinz Company, of Pittsburgh, PA.

MC 143776 (Sub-51), filed May 11, 1982. Applicant: C.D.B., INCORPORATED, 155 Spaulding Ave., S.E., Grand Rapids, MI 49506. Representative: C. Michael Tubbs (same address as applicant), (800) 253–9527. Transporting *electrical equipment and supplies*, between the facilities of GTE Sylvania Wiring Devices, Incorporated, at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148356 (Sub-3), filed May 10, 1982. Applicant: STAR MOTOR FREIGHT LINES, INC., 3110 N. Stone, Colorado Springs, CO 80907. Representative: Jack B. Wolfe, 601 E. 18th Ave. #107, Denver, CO 80203, (303) 861–8046. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (1) between Pueblo, CO and Raton, NM, serving all intermediate points, over Interstate Hwy 25 or combined U.S. Hwys 85 and 87, (2) between Pueblo and Trinidad, CO, serving all intermediate points, and serving points in Fremont, Huerfano, Costilla, and Las Animas Counties, CO as off-route points: from Pueblo over Interstate Hwy 25 or combined U.S. Hwys 85 and 87 to Walsenburg, CO, then over U.S. Hwy 160 to junction CO Hwy 12, then over CO Hwy 12 to Trinidad, and (3) serving all points in NM as off-route points in connection with carrier's otherwise authorized regular route operations.

Note.—Applicant intends to tack this authority with its existing operating rights.

MC 151407 (Sub-5), filed May 10, 1982. Applicant: T & T TRUCKING, INC., 274 N.W. 37th St., Miami, FL 33127. Representative: D. Paul Stafford, Suite 1125 Frito Lay Tower, P.O. Box 45538, Dallas, TX 75245, (214) (358–3341. Transporting *chemicals and related products*, between points in Dade County, FL, on the one hand, and, on the other, points in CA, OR and WA.

MC 154317 (Sub-1), filed May 10, 1982. Applicant: G AND J CARTAGE COMPANY, 20532 Pennsylvania Rd., Taylor, MI 48180. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, (313) 349–3980. Transporting *molds, conveyors, controls for conveyors, and iron and steel articles*, between points in MI, OH, IN, IL, PA, WV, MD, TN, KY, IA, and MO.

MC 154647 (Sub-1), filed May 11, 1982. Applicant: THE LENDEL VINES CO., INC., 103 Henson Dr., Paris, AR 72855. Representative: Thomas V. Staley, 1550 Tower Bldg., Little Rock, AR 72201, (501) 375–9151. Transporting *foodstuffs and related products*, between points in TX, on the one hand, and, on the other, points in AR, MO, LA, OK, and KS.

MC 161637, filed May 6, 1982. Applicant: ROBERT SAMAC, d.b.a. S.S.T., 905 S. 209th, Seattle, WA 98148. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009, (206) 453–0312. Transporting (1) *salt*, between points in UT, on the one hand, and, on the other, points in WA, (2) *building materials*, between points in OR, WA, NV, AZ, NM, UT, CO, OK, NE, SD, TX, ND, KS, and WY, and (3) *iron and steel articles*, between points in WA, OR, ID, UT, CA, WY, and NV.

MC 161877, filed May 7, 1982. Applicant: BEN MGRDICHIAN, d.b.a. BEN MGRDICHIAN TRUCKING, 15527 Wilmaglen Dr., Whittier, CA 90604. Representative: Ben Mgrdichian (same address as applicant), (213) 947–7177. Transporting *motor vehicle and boat parts and accessories*, between points in the U.S. (except AK and HI), under continuing contract(s) with Unique Truck Accessories, of City of Industry, CA.

MC 161947, filed May 10, 1982. Applicant: BOBBY ANTHONY JOHNSON, 2747 Rialto Ave., Rialto, CA 92376. Representative: Bobby Anthony Johnson (same address as applicant), (714) 874–6939. Transporting *automobile parts*, between points in the U.S., under continuing contract(s) with Motor Rim & Wheel Service, Inc., of Montebello, CA.

Volume No. OP4–179

Decided: May 17, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 138687 (Sub-8), filed May 12, 1982. Applicant: BYNUM TRANSPORT, INC., 4609 Hwy 92, East, Lakeland, FL 33801. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32301, (904) 576–1221. Transporting *building and construction materials*, between points in FL, GA, and AL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141317 (Sub-7), filed May 10, 1982. Applicant: HAAG TRANSPORT, INC., P.O. Box 125, Shelburn, IN 47879. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *drugs, chemicals, and pharmaceuticals*, between points in Vigo County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), under continuing contract(s) with Pfizer, Inc., of Terre Haute, IN.

MC 143037 (Sub-2), filed May 11, 1982. Applicant: T & T REFRIGERATED TRANSPORT, INC., 2290 W. Adams, Fresno, CA 93706. Representative: Edward L. Fanucchi, 2409 Merced, No. 3, Fresno, CA 93721. (209) 268–8771. Transporting *such commodities* as are dealt in or used by grocery stores, between points in CA, OR, WA, ID, NV, AZ, and NM.

MC 158737, filed May 11, 1982. Applicant: DENNIS R. MCLEAN, d.b.a. M & N TRUCKING, 2522 Lillian Ave., Duluth, MN 55811. Representative: Stephen F. Grinnell, 1600 TCF Tower, 121 S 8th St., Minneapolis, MN 55402. (612) 333–1341. Transporting *food and related products*, between points in MN, on the one hand, and, on the other, points in MN, WI and the upper peninsula of MI.

MC 159707, filed May 12, 1982. Applicant: SCARAB TRANSPORTATION, INC., 10 East Oregon Ave., Philadelphia, PA 19148. Representative: Richard Rueda, 135 N. Fourth St., Philadelphia, PA 19106, (215) 627–1923. Transporting *such commodities* as are dealt in or used by department stores, between points in the U.S. (except AK and HI), under continuing contract(s) with The Limited Stores, Inc., of Columbus, OH.

MC 161667, filed May 10, 1982. Applicant: GARY LINE SIGHTSEEING TOURS, INC., 626 Valley Hill Rd., Riverdale, GA 30274. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, (919) 627–0555. Transporting *passengers and their baggage*, in special and charter operations, beginning and ending at points in Rabon County, GA, Macon, Jackson and Transylvania Counties, NC, and extending to points in the U.S. in and east of MN, IA, MO, AR, and LA.

Volume No. OP4–180

Decided: May 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

FF–597, filed May 13, 1982. Applicant: CADDO INTERNATIONAL, P.O. Box

3463, Seal Beach, CA 90704. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006, (202) 833–8884. As a freight forwarder, in connection with the transportation of *used household goods, unaccompanied baggage,* and *used automobiles,* between points in the U.S.

MC 3677 (Sub-52), filed May 10, 1982. Applicant: WMA INTERSTATE MOTOR LINES, INC., 2019 West Virginia Ave., NE, Washington, DC 20002. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005, (202) 783–7900. Transporting *passengers and their baggage,* in charter operations, between points in the U.S. (except AK and HI), under continuing contract(s) with United States Travel Agency, Inc., doing business as East Coast Parlor Car Tours, of Washington, DC.

MC 113047 (Sub-13), filed May 10, 1982. Applicant: BUANNO TRANSPORTATION CO., INC., R. D. #1, Fort Johnson, NY 12070. Representative: Herbert M. Carter, 305 Montgomery St., Syracuse, NY 13202, (315) 472–8845. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Life Savers, Inc., and Beech Nut Nutrition Corp., both of Canajoharie, NY.

MC 116227 (Sub-29), filed May 13, 1982. Applicant: POLMAN TRANSFER, INC., Rt. 3 Box 470, Wadena, MN 56482. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *such commodities* as are dealt in or used by farmers cooperative associations, between those points in the U.S. in and west of WI, IL, MO, AR, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144867 (Sub-12), filed May 10, 1982. Applicant: R & J TRANSPORT, INC., 608 N. 41st St., Manitowoc, WI 54220. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *machinery,* between points in Door and Kewaunee Counties, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146447 (Sub-29), filed May 13, 1982. Applicant: TANBAC, INC., 2941 S. W. 1st Terrace, Ft. Lauderdale, FL 33315. Representative: Richard A. Austin, 320 Rochester Bldg., 8390 N.W. 53rd. St., Miami, FL 33166, (305) 592–0036. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Mobil Chemical Co., of Macedon, NY.

MC 147067 (Sub-4), filed May 13, 1982. Applicant: MACMILLAN OIL COMPANY, INC., 4306 Second Ave., Des Moines, IA 50306. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282–3525. Transporting (1) *alcohol,* between points in Linn and Pottawattamie Counties, IA, on the one hand, and, on the other, points in Cook County, IL, Marion County, IN, and points in MO and NE, and (2) *fertilizer,* between points in Scott County, IA, on the one hand, and, on the other, points in IL.

MC 150836 (Sub-1), filed May 10, 1982. Applicant: JOHN A FOWLER, d.b.a. JOHN FOWLER TRUCKING, Route 4, #12 Robin Dale Lane, Burleson, TX 76128. Representative: A. William Brackett, 623 S. Henderson, 2nd Floor Fort Worth, TX 76104, (817) 332–4415. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Nutritional Foods, Inc., d.b.a. Landstrom Distributors, of S. San Francisco, CA.

MC 158407 (Sub-2), filed May 13, 1982. Applicant: COURTESY TRANSPORTATION, INC., Rt. 16, P.O. Box 281, Mendon, MA 01756. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580, 1–716–265–9510. Transporting (1) *roofing and building materials,* (2) *paper and paper products,* (3) *flashing, water and vapor barriers,* and (4) *insulating materials and aluminum foil,* between points in the U.S., under continuing contract(s) with Glas Kraft, Inc., of Slatersville, RI.

Volume No. OP4–182

Decided: May 18, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 133966 (Sub-61), filed May 10, 1982. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, PA 18707. Representative: Joseph A. Keating, Jr., 121 S. Main St. Taylor, PA 18507, (717) 314–8030. Transporting *metal and plastic products,* between points in Lycoming County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138146 (Sub-3), filed May 12, 1982. Applicant: OLYMPIA TRAILS BUS COMPANY, INC., Rear 30–116 Port St., Newark, NJ 07105. Representative: Eric Meierhoefer, Suite 1000, 1029 Vermont Avenue, NW., Washington, DC 20005, (202) 347–9332. Transporting *passengers and their baggage,* in the same vehicle, in charter and special operations, beginning and ending at points in Bergen, Hudson, Middlesex, and Passaic Counties, NJ, and extending to points in the U.S. (except AK and HI).

MC 161916, filed May 10, 1982. Applicant: SANDIA TRUCKING, INC., 4432 San Isidro NW., Albuquerque, NM 87107. Representative: James C. Ash, 2524 Vermont, NE, Albuquerque, NM 87110, (505) 298–7511. Transporting *meat byproducts,* between points in Los Angeles County, CA and points in Potter County, TX.

MC 161946, filed May 10, 1982. Applicant: FARMERS UNION CO-OP TRANSPORT, d.b.a. CO-OP TRANSPORT, Stetsonville, WI 54480. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703, (608) 256–7444. Transporting *commodities in bulk,* between points in WI, on the one hand, and on the other, points in MN, IA, IL, IN, MI, and SD.

Volume No. OP4–184

Decided: May 19, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Williams not participating.)

MC 37896, (Sub-39) filed May 12, 1982. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Leonard S. Cassell (same address as applicant), (704) 684–5321. Transporting *general commodites* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 126206 (Sub-3), filed May 14, 1982. Applicant: NEWCOMB, INC., 2400 N. Monroe, Albany, GA 31702. Representative: Robert D. Newcomb (same address as applicant), (192) 883–4111. Transporting *household goods,* between points in Dougherty, Crawford, Taylor, Marion, Schley, Webster, Stewart, Chattahoochee, Quitman, Baker, Macon, Peach, Houston, Twiggs, Talbot, Bleckley, Pulaski, Dodge, Wilcox, Telfair, Irwin, Coffee, Berrien, Atkinson, Lanier, Lowndes, Brooks, Thomas, Sumter, Dooly, Crisp, Randolph, Terrell, Lee, Worth, Turner, Ben Hill, Clay, Calhoun, Tift, Early, Mitchell, Colquitt, Cook, Miller, Seminole, Decatur, and Grady Counties, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, TN, MS, LA, IL, OH, IN, WV, VA, KY, AR, MO, and DC.

MC 147096 (Sub-10), filed May 10, 1982. Applicant: RABBIT EXPRESS, DIVISION OF MADISON BROTHERS DELIVERY SERVICE, INC., 4625 Highway 80 East Mesquite, TX 75150. Representative: Floyd Madison (same address as applicant), (817) 277–5892.

Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in OK, LA, TX, AR, MS, TN, OH, GA, AL, MI and MO, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 149576 (Sub-15), filed May 13, 1982. Applicant: TRANS AMERICAN TRUCKING SERVICE, INC., P.O. Box 1247, Nixon Station, Edison, NJ 08818. Representative: R. M. McGraw (same address as applicant), (201) 985–2182. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Okonite Co., of Ramsey, NJ.

MC 149576 (Sub-16), filed May 14, 1982. Applicant: TRANS AMERICAN TRUCKING SERVICE, INC., P.O. Box 1247, Nixon Station, Edison, NJ 08818. Representative: Ronald McGraw (same address as applicant), (201) 985–2182. Transporting *machinery*, between points in the U.S. (except AK and HI), under continuing contract(s) with The Wing Co., of Cranford, NJ.

MC 151546 (Sub-1), filed May 14, 1982. Applicant: CASCADE TRANSPORT, INC., P.O. Box 1128, Bend, OR 97701. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201, (503) 226–6491. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OR, on the one hand, and, on the other, points in CA, ID, NV, OR, and WA.

MC 151946 (Sub-4), filed May 13, 1982. Applicant: BIG LAKE TRANSPORT, INC., P.O Box 98, Charleston, MO 62834. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440, (216) 652–2789. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Fairchild Camera and Instrument Corp., of Mountain View, CA.

MC 157906, filed May 14, 1982. Applicant: LARRY J. TEUBERT, d.b.a. L.J.T. TRUCKING, 355 Cronk Rd., Allen, MI 49227. Representative: Donald L. Lambright, 10 South Broad St., Hillsdale, MI 49242, (517) 437–2200. Transporting *grain products*, between those points in MI on and south of U.S. Hwy 96, on the one hand, and, on the other, those points in OH on and north of Interstate Hwy 70.

MC 158066 (Sub-2), filed May 13, 1982. Applicant: 5 "J" EXPRESS, INC., 9144 E. 400 N. Van Buren, IN 46991. Representative: Gerald J. Baumann (same address as applicant), (317) 934–2368. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Grant County, IN, Kent and Menominee Counties, MI, and Cook County, IL, on the one hand, and, on the other, points in U.S. (exept AK and HI).

MC 159646, filed May 14, 1982. Applicant: ENERGY TRUCKING, INC., 4100 South 500 West, Salt Lake City, UT 84111. Representative: John T. Caine, 2568 Washington Blvd., Odgen, UT 84401, (801) 393–5367. Transporting *uranium bearing ores*, between points in Mohave County, AZ, on the one hand, and, on the other, points in San Juan County, UT, under continuing contract(s) with Energy Fuels Nuclear, Inc., of Denver CO.

MC 160736, filed May 13, 1982. Applicant: DAVID R. BELL TRUCKING, 7718 Kendall Rd., Pavilion, NY 14525. Representative: David R. Bell (same address as applicant), (716) 237–5078. Transporting *agricultural fertilizer and soil conditioners*, (a) between the ports of entry on the International Boundary line between the U.S. and Canada on the Niagara River in NY, on the one hand, and, on the other, points in Monroe, Livingston, and Wyoming Counties, NY, and (b) between Toledo, OH, Baltimore, MD, Wilmington, DE, and points in Shenandoah County, VA, on the one hand, and, on the other, points in Monroe, Livingston, and Wyoming Counties, NY.

MC 161986, filed May 13, 1982. Applicant: ALPHA CARTAGE CO., INC., 555 S. Woodward Ave., Fifth Floor North, Birmingham, MI 48011. Representative: Patrick A. Moran (same address as applicant), (313) 642–2000. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

Volume No. OP5–108

Decided: May 12, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 36788 (Sub-2), filed May 4, 1982. Applicant: DILLON'S BUS SERVICE, INC., 8383 Elvaton Rd., Millersville, MD 21108. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *passengers and their baggage* in the same vehicle with passengers, in special or charter operations, beginning and ending at points in Prince Georges, Baltimore, Howard, Queen Anne and Montgomery Counties, MD and extending to points in the U.S. (except AK and HI).

MC 58189 (Sub-4), filed May 6, 1982. Applicant: ASTRO EXPRESS, INC., 41 Turnpike Rd., Fayville, MA 01745. Representative: Wesley S. Chused, 15 Court Sq., Boston, MA 02108 617–742–3530. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in MA, on the one hand, and, on the other, points in CA, CT, DE, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, UT, VT, VA, WV, and DC.

MC 136348 (Sub-7), filed May 3, 1982. Applicant: ANTHONY G. FRANCIS and JOSEPH G. FRANCIS, d.b.a. FRANCIS WHOLESALE CO., 3048 White Horse Rd., Greenville, SC 29611. Representative: Martin J. Leavitt, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167, 313–349–3980. Transporting *such commodities* as are dealt in by wholesale and retail grocery stores and supermarkets, between points in MD, VA, NC, SC, GA, and FL on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 139638 (Sub-12), filed May 6, 1982. Applicant: N. L. MONTGOMERY, INC., P.O. Box 626, Rocky Mount, VA 24151. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, 615–790–2510. Transporting *metal products*, between points in NC on the one hand, and, on the other, points in MD, OH, PA, VA, SC, GA, and WV.

MC 143638 (Sub-8), filed May 3, 1982. Applicant: JOHNSON'S TRUCKING, INC., Route 1, Box 31, Inola, OK 74036. Representative: Michael H. Lennox, 3925 N.W. 10th St., Box 75613, Oklahoma City, OK 73147, 405–943–2477. Transporting *pig iron*, between points in TX, LA, AR, MO, KS, and OK.

MC 144209 (Sub-15), filed May 3, 1982. Applicant: ERWIN TRUCKING, INC., 4515 North 24th St., Omaha, NE 68110. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, 402–392–1220. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paint and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with Sherwin Williams Company of Cleveland, OH.

MC 146068 (Sub-13), filed April 26, 1982. Applicant: CONSOLIDATED CARRIERS INTERNATIONAL TRANSPORT CORPORATION, P.O. Box 5005, Florence, SC 29502. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., NW.,

Washington, DC 20004, (202) 737–1030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Bristol County, MA, Florence County, SC, and points in FL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149308 (Sub-23), filed April 30, 1982. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: Donald W. Smith P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *chemicals and related products* between Kansas City, MO. Baltimore, MD, Los Angeles, CA, Atlanta, GA, and Chicago, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151508 (Sub-3), filed April 29, 1982. Applicant: BARY, INC., 6001 Crittenden Dr., P.O. Box 35354, Louisville, KY 40232. Representative: Jack Bary, 1303 Blackwood Ct., Jeffersonville, IN 47130, (812) 283–7604. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Floyd and Clarke Counties, IN, and Jefferson County, KY, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 161598, filed April 20, 1982. Applicant: EAST SIDE DISTRIBUTORS, INC., 2950 Highway 98, North, Lakeland, FL 33805. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 344–8030. Transporting *food and related products* between points in Pinellas County, FL, on the one hand, and, on the other, those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River and extending along of the Mississippi River to its junction along the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada.

MC 161789, filed May 3, 1982. Applicant: THE BOSSHART COMPANY, 217 North First Ave. West, Truman, MN 56088. Representative: Robert N. Maxwell, P.O. Box 2471, Fargo, ND 58108, 701–237–4223. Transporting *clay, concrete, glass or stone products*, between points in Blue Earth, Brown, Faribault, Jackson, Le Sueur, Lincoln, Lyon, Martin, Murray, Nobles, Redwood, and Watonwan Counties, MN, on the one hand, and, on the other, points in IA, ND, SD, and WI.

MC 161808, filed May 3, 1982. Applicant: DEL GOEBEL d.b.a. DEL GOEBEL TRANSPORT COMPANY, P.O. Box 476, Mankato, MN 56001. Representative: Katherine E. Sasseville, Suite 400, 808 Third Ave. So., Fargo, ND 58103, 701–280–2800. Transporting: *food and related products*, between points in the U.S. under continuing contract(s) with Honeymead Products Company of Mankato, MN.

MC 161828, filed May 5, 1982. Applicant: KC EXPRESS, P.O. Box 258, Versailles, OH 45380. Representative: Krista D. Subler (same address as applicant), 513–526–3309. Transporting: (1) *such commodities* as are used or dealt in by manufacturers and distributors of food and related products, between points in the U.S. (except AK and HI), and (2) *transportation equipment*, between points in FL and KY on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP5–110

Decided: May 14, 1982.
By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 46518 (Sub-16), filed May 6, 1982. Applicant: BOSTON-BUFFALO EXPRESS, INC., 7200 Fly Rd., P.O. Box 207, East Syracuse, NY 13057. Representative: Herbert M. Canter, 305 Montgomery St., Syracuse, NY 13202, (312) 472–8845. Transporting: *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, MA, ME, NH, NY, RI, and VT.

MC 144859 (Sub-6), filed April 19, 1982. Applicant: SCOTT PALLETS, INC., P.O. Box 341, Amelia, VA 23002. Representative: Jo Anne Scott (same address as applicant), 804–561–2514. Transporting (1) *rubber products*, under continuing contract(s) with Dick's Place, Inc. of Amelia, VA, and (2) *steel products*, under continuing contract(s) with Brenco, Inc. of Petersburg, VA, and The Hon Company of Chester, VA, between points in the U.S.

MC 149199 (Sub-14), filed May 6, 1982. Applicant: FRONTIER EXPRESS, INCORPORATED, d.b.a. D & M TRANSPORTATION, 905 S.W. Second, Oklahoma City, OK 73109. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262–1322. Transporting: *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152509 (Sub-22), filed May 4, 1982. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., P.O. Box 5856, Cleveland, OH 44101. Representative: Robert R. Harris, 1730 M St., NW, Suite 501, Washington, DC 20036, (202) 296–2900. Transporting: *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 156738, filed May 4, 1982. Applicant: PEM-KAY FURNITURE CO., INC., P.O. Box 595, Conover, NC 28613. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 372–6730. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with G.F.C. Foam Corp., d.b.a General Foam Corp., of Paramus, NJ.

MC 160199, filed April 27, 1982. Applicant: COOKE TRUCKING COMPANY, INC., Rt. 1, Box 72, Mt. Airy, NC 27030, Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064, (615) 790–2510. Transporting *metal products* between Fredericksburg, VA, on the one hand, and, on the other, points in OH, GA, MA, PA, CT, MI, NC, KY, FL, IN, IL, CA, SC, TN, NY, NJ, AL, MS, LA, and TX.

MC 161199, filed April 27, 1982. Applicant: WESTERN FREIGHT LINES, INC., 300 Elliott Ave. W. #220, Seattle, WA 98109. Representative: Henry C. Winters, 12600 S.E. 38th St., Suite 200, Bellevue, WA 98006, (206) 644–2100. Transporting *bananas*, between points in CA, on the one hand, and, on the other, points in AR, AZ, CA, CO, ID, IA, IL, KS, LA, MO, MN, MT, NE, NM, NV, ND, OK, OR, SD, TX, UT, WA, WI, and WY.

MC 161848, filed May 6, 1982. Applicant: A.B. & W. TRUCKING CORPORATION, 7601 Poplar Hill Lane, Clinton, MD 20735. Representative: Steven L. Weiman, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, 301–840–8565. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AL, AZ, CA, CO, CT, DE, FL, GA, IL, KY, MA, ME, MD, MN, MO, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, TX, VA, VT, WV, and DC.

MC 161858, filed May 6, 1982. Applicant: HICKS MOVING & STORAGE, INC., 2282 South Tamiami Trail, Venice, FL 33595. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006, (202) 331–3700. Transporting household goods, between points in FL, on the one hand, and, on the other, points in AL, GA, MS, NC, SC, and TN.

Volume No. OP5-112

Decided: May 17, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 41098 (Sub-78), filed May 10, 1982. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St. NW., Washington, DC 20006, (202) 833-8884. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Imagic, Inc., of Saratoga, CA.

MC 43038 (Sub-500), filed May 7, 1982. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civil Center Dr., Fourth Floor, Box CS 5027, Southfield, MI 48037. Representativea: Paul H. Jones, 29725 Shacket Ave., Madison Hights, MI 48071, 313-352-9200 Transporting *transportation equipment*, between points in the U.S. (except AK and HI), under continuing contract(s) with Volkswagen of America, Inc. of Englewood Cliffs, NJ.

MC 108359 (Sub-9), filed April 29, 1982. Applicant: EMPIRE TRAILWAYS, INC., 67 Chestnut St., Rochester, NY 14604, Representataive: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-2441 Transporting *passengers and their baggage*, in special and charger operations, beginning and ending at points in NY in and west of Oswego, Onondaga, Cortland, and Broome Counties, and extending to points in the U.S. (including AK, but excluding HI).

MC 126678 (Sub-2), filed May 6, 1982. Applicant: PDQ VAN & STORAGE, INC., P.O. Box 227, Marysville, CA 95901. Representative: Robert G. Harrison, 4299 James Dr. Carson City, NV 89791, 702-882-5649. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Western Electric Company, Inc., of Greensboro, NC.

MC 127799 (Sub-12), filed May 10, 1982. Applicant: LUPPES TRANSPORT COMPANY, INC., Box 101, Webster City, IA 50595. Representative: William L. Fairbank, 2400 Financial Center, Des Moines, IA 50309, (515) 282-3525. Transporting *petroleum products* between St. Paul, MN on the one hand, and, on the other, points in IA.

MC 135069 (Sub-6) filed May 10, 1982. Applicant: ROCKAWAY TRUCKING, INC., Rt. 46, Rockaway, NJ 07866. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797-6060. Transporting (1) *clay, concrete, glass or stone products*, (2) *metal products*, (3) *tableware*, (4) *candles*, and (5) *plastic products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Dansk International Designs, Ltd., of Mt. Kisco, NY.

MC 139379 (Sub-13), filed May 6, 1982. Applicant: LES MATHRE TRUCKING, INC., 417 8th St., Story City, IA 50248. Representative: Larray D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *food and related products* between points in IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147648 (Sub-3), filed May 5, 1982. Applicant: ROBERT L. PERKINS, d.b.a. PERKINS TRANSPORT SERVICE, 4913 Maple St., Omaha, NE 68104. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, 402-558-1743. Transporting *recreational, travel, converter vans, mini-vans, and motor homes*, between points in the U.S. under continuing contract(s) with Winnebago Industries, Inc., of Forest City, LA.

MC 151209 (Sub-2), filed April 19, 1982. Applicant: GULF WESTERN EXPRESS, INC., P.O. Box 2653, Natchitoches, LA 71457. Representative: John G. Williams, 329 Cane River Mall, Natchitoches, LA 71457; (318) 352-8736. Transporting *paper bags, paper and plastic bags, wrapping paper, pulp board, and related products*, between points in LA, TX, MS, and AR, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Westvaco-Bag Division of New Orleans, LA.

MC 156728, filed May 10, 1982. Applicant: JOHN J. HERBST, d.b.a. J & R TRANSPORT, Box 195, 125 North 3rd St., Dickeyville, WI 53808. Representative: Carl E. Munson, 469 Fischer Bldg., P.O. Box 796, Dubuque, IA 52001, 319-557-1320. Transporting *fertilizer* between points in Jo Davies and La Salle Counties, IL, Cedar, Clinton and Dubuque Counties, IA, on the one hand, and, on the other, points in WI.

MC 158288 (Sub-3), filed May 11, 1982. Applicant: MONTANA CONSULTANTS, INC., d.b.a. TOMAHAWK TRANSPORTATION, 5400 Laurel Rd., Billings, MT 59101. Representative: David A. Sutherland, 1150 Connecticut Ave., NW., Suite 400, Washington, DC 20036; (202) 452-6800. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Champion International Corporation of Stamford, CT.

MC 160279 (Sub-1), filed May 7, 1982. Applicant: MBPXL TRANSPORTATION, INC., P.O. Box 2519, Wichita, KS 67201. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501, (402) 475-6761. Transporting (1) *food and related products* under continuing contract(s) with Thies Companies, Inc., of Great Bend, KS, and (2) *chemicals and related products* under continuing contract(s) with Adhesives Consultants Midwest Corporation of Franklin Park, IL, between points in the U.S. (except AK and HI).

MC 161508, filed May 11, 1982. Applicant: BOB ANDERSON TOURS, INC., 512 Washington, Ave., Woodbine, NJ 08270. Representative: Jeremy Kahn, 1511 K St., NW., Suite 733 Investment Bldg., Washington, DC 20005, (202) 783-3525. Transporting *passengers and their baggage*, in the same vehicle with passengers, in charter and special operations, beginning and ending at points in Delaware County, PA, and Atlantic and Cape May Counties, NJ, and extending to points in the U.S. including AK but excluding HI.

MC 161709, filed April 28, 1982. Applicant: HARLEY GOLDSMITH, 3-1495 Ottokee St., Wauseon, OH 43567. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215, 614-228-1541. Transporting (1) *clay, concrete, glass or stone products*, (2) *Metal products*, and (3) *machinery*, between points in MI, on the one hand, and, on the other, points in Defiance, Fulton, Henry, Lucas, Paulding, Putnam, Williams and Wood Counties, OH.

MC 161898, filed May 10, 1982. Applicant: PROGRESSIVE TRAVEL, INC., 420 Chestnut St., Union, NJ 07038. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. NW., Washington, DC 20005, 202-783-3525. As a *broker* at Union, NJ, in arranging for the transportation of *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, between points in the U.S. (including AK but excluding HI).

MC 161918, filed May 10, 1982. Applicant: SOUTHWEST BEDDING COMPANY, INC., 2908 N. Sixth St., Fort Smith, AR 72904. Representative: George Spencer, 7 N. Block, Fayetteville, AR 72901, (501) 442-0585. Transporting *steel sofa mechanisms and furniture* between points in the U.S. (except AK and HI), under continuing contract(s) with Ethan Allen, Inc., of Danbury, CT.

MC 161949, filed May 10, 1982. Applicant: M & J BUS LINES, INC., 130 Ingham Hill Rd., P.O. Box 767, Old Saybrook, CT 06475. Representative: Palmer S. McGee, Jr., One Constitution

Plaza, Hartford, CT 06103, 203–278–1330. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in New Haven, New London, and Middlesex Counties, CT, and extending to points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–14177 Filed 5–25–82; 8:45 am]

BILLING CODE 7035–01–M

[I.C.C. Order No. 81–A Service Date May 24, 1982.]

Rail Carriers; Rerouting Traffic Under Service Order No. 1344

To All Railroads

Upon further consideration of Second Revised I.C.C. Order No. 81 and good cause appearing therefor:

It is ordered: I.C.C. Order No. 81 is vacated.

This order shall become effective at 4:00 p.m., May 14, 1982, and shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 14, 1982.

Interstate Commerce Commission.

J. Warren McFarland,

Agent.

[FR Doc. 82–14241 Filed 5–25–82; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL TRADE COMMISSION

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTIONS: The proposed information collections are for use by the Commission in connection with Investigation No. 332–142, The Impact of Foreign Trade-Related Performance Requirements on U.S. Industry and Foreign Investments Abroad.

SUMMARY OF PROPOSAL: The following summarizes the information collection proposal submitted to OMB for Inv. No. 332–142:

(1) Number of forms submitted: Three.

(2) Title of forms: Questionnaire for U.S. Producers of Chemicals and Allied Products; Questionnaire for U.S. Producers of Office, Computing, and Accounting Machines; Questionnaire for U.S. Producers of Motor Vehicles and Equipment.

(3) Type of request: New.

(4) Frequency of use: Nonrecurring.

(5) Description of respondents: Businesses (U.S. producers of chemicals and allied products, office, computing, and accounting machines, or motor vehicles and equipment).

(6) Estimated number of respondents: 270.

(7) Estimated total number of hours to complete the forms: 4,050.

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

(9) Section 3504(h) of Pub. L. 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202–523–4463). Comments and questions about the proposals should be directed to David Reed, the designated reviewer for OMB (tel. no. 202–395–7231). If you anticipate commenting on a form but find that time to prepare comments will prevent you from submitting them promptly you should advise David Reed of your intent as soon as possible. Copies of any comments should be provided to Charles Erwin (United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436).

Issued: May 21, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82–14333 Filed 5–25–82; 8:45 am]

BILLING CODE 7020–02–M

Agency Forms Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

PURPOSE OF INFORMATION COLLECTION: Pursuant to the Tariff Act of 1930, the Trade Act of 1974 and the Agricultural Adjustment Act of 1933, the Commission determines the impact of international trade on domestic industries and commodities. Data from questionnaires sent to U.S. businesses provide part of the statistical base for the Commission's determinations. Investigations can result in the imposition of import duties, quotas or other forms of relief to domestic industries.

SUMMARY OF PROPOSAL: The following summarizes the information collection proposal submitted to OMB:

(1) Number of forms submitted: Three.

(2) Title of forms: Sample Producers', Sample Importers', and Sample Purchasers' Questionnaires.

(3) Type of request: Adjustment (Change in use)—adjustment to information collection proposal approved by OMB on June 30, 1981 (OMB No. 3117–0016).

(4) Frequency of use: Recurring.

(5) Description of respondents: U.S. businesses and farms.

(6) Estimated number of respondents: 5,700 (total, revised from 3,400).

(7) Estimated total number of hours to complete the forms: 94,000 (total, revised from 51,000).

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

(9) Section 3504(h) of Pub. L. 96–511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Charles Ervin, the U.S.I.T.C. agency clearance officer (tel. no. 202–523–4463). Comments and questions about the proposal should be directed to David Reed, the designated reviewer for OMB (tel. no. 202–395–7231). If you anticipate commenting on the proposal but find that time to prepare comments will prevent you from submitting them promptly you should advise David Reed of your intent as soon as possible. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, N.W. Washington, D.C. 20436).

Issued: May 20, 1982.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-14334 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-105]

Certain Coin-Operated Audiovisual Games, and Components Thereof (Viz, Rally-X and PAC-MAN); Termination of a Respondent Based on a Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Termination of the investigation with respect to respondent Fernandez Fun Factory, Inc., based on a settlement agreement.

SUPPLEMENTARY INFORMATION: Complainant Midway Manufacturing Co., respondent Fernandez Fun Factory, Inc., and the Commission investigative attorney moved on January 12, 1982, to terminate the investigation on the basis of a settlement agreement.

On March 24, 1982, the Commission published a notice in the **Federal Register** requesting comment from the public and from interested Federal agencies regarding whether the investigation should be terminated on the basis of the settlement agreement (47 FR 12701). No comments were received.

On May 17, 1982, the Commission terminated this investigation as to Fernandez Fun Factory on the basis of the settlement agreement. The Commission concluded that such termination would not adversely affect the public interest.

Notice of this investigation was published in the **Federal Register** of July 1, 1981 (46 FR 34436).

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business 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: Scott Daniels, Esq., U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0074

By order of the Commission.

Issued: May 18, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-14359 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-122; Order No. 1]

Certain Miniature, Battery-Operated, All-Terrain, Wheeled Vehicles

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Donald K. Duvall as Presiding Officer in this investigation with the understanding that a Recommended Determination as to temporary relief will be rendered forty-five days from the date of publication of the notice of investigation in the **Federal Register**, if consistent with due process.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register**.

Issued: May 18, 1982.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 82-14361 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-97]

Certain Steel Rod Treating Apparatus and Components Thereof; Denial of Petition for Reconsideration

AGENCY: International Trade Commission.

ACTION: Denial of petition for reconsideration.

SUPPLEMENTARY INFORMATION: Notice of the institution of this investigation was published in the **Federal Register** of January 28, 1981 (46 FR 9263).

The investigation concerned the alleged infringement of U.S. Letters Patent 3,390,871.

On December 10, 1981, the Commission, having determined that there was a violation of section 337 of the Tariff Act of 1930 in the sale for importation of the subject steel rod treating apparatus, issued an exclusion order pursuant to section 337(d). On December 30, 1981, the U.S. District Court for the District of South Carolina found the '871 patent invalid and unenforceable. The Commission thereupon revoked its determinations as to remedy, the public interest, and bonding, and issued an order permitting entry under bond pursuant to section 337(e), the order to remain in effect pending the exhaustion of appeal rights from the South Carolina action.

Respondents have moved for reconsideration of the Commission's determination as to violation of section 337 in light of the conflicting findings of the district court as set forth in the court's opinion of February 2, 1982. After review of the record in the Commission's investigation and the district court's opinion, the Commission has denied the petition for reconsideration.

Copies of the Commission' Action and Order and Memorandum Opinion, and all other public documents contained in the record of the investigation are available for inspection by 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, N.W., Room 161, Washington, D.C. 20436, telephone (202) 523-0161.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436; telephone (202) 523-0375.

By order of the Commission.

Issued: May 17, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-14364 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

[332-140]

Competitive Status of Major Supply Regions for Fall-Harvested Fresh White or Irish Potatoes in Selected Markets

AGENCY: International Trade Commission.

ACTION: Upon consideration of a request from the National Potato Council, the Commission has scheduled an additional public hearing for investigation No. 332-140 to be held beginning at 10:00 a.m., on June 24, 1982, to be continued on June 25, 1982, if required, in the Gold Room, Room 420, State Capitol Building, Boise, Idaho 83720. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, June 18, 1982. A hearing in Bangor, Maine on June 30, 1982, will be held as originally scheduled.

Notice of the investigation and information on the Bangor, Maine hearing were published in the **Federal Register** of April 7, 1982 (47 FR 14978).

By order of the Commission.

Issued: May 18, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-14356 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-90 (Preliminary)]

Chlorine From Canada

Determination

On the basis of the record [1] developed in investigation No. 731-TA-90 (Preliminary), the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of Chlorine, as provided for in item 415.20 of the Tariff Schedules of the United States (TSUS), which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On April 5, 1982, a petition was filed by counsel on behalf of Diamond Shamrock Corp., Olin Corp., and Pennwalt Corp. with the U.S. International Trade Commission and with the Department of Commerce alleging that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from Canada of chlorine which is allegedly being sold at LTFV. Accordingly, the Commission instituted a preliminary investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of the importation of such merchandise into the United States.

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on April 14, 1982 (47 FR 16126). The conference was held in Washington, D.C. on April 29, 1982, 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 Paula Stern, Alfred E. Eckes, and Veronica A. Haggart

On the basis of the record established in this investigation, we determine that there is no reasonable indication that an industry in the United States is being materially injured or threatened with material injury by reason of imports from Canada of chlorine allegedly sold at less than fair value.[3] The reasons for our determination are set forth below.

Domestic Industry

Section 771(4) of the Tariff Act of 1930 defines the term "industry" as,

> the domestic producers as a whole of the like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

The term "like product" is defined in section 771(10) of the Act as,

> a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

The chlorine that is imported into the United States from Canada is almost exclusively liquid chlorine. Chlorine is an inorganic chemical and one of the largest volume chemicals produced in the United States. Chlorine is produced as gas, and it remains in that state at normal temperatures and pressures. Under low temperatures and/or elevated pressures, chlorine reaches a liquid state. Most chlorine is liquified before shipment because the volume can be reduced in the liquification process. However, there are no chemically discernible differences between the liquid and gaseous chlorine and both forms can be used interchangeably.

We find the like product to be chlorine whether in its liquid or gaseous state. therefore, the domestic industry against which injury should be assessed consists of the domestic producers of chlorine.

An argument has been made by the respondents during the course of this investigation that injury should be assessed with regard to the profitability of the chlor-alkali industry and not solely with regard to the chlorine industry. The chlor-alkali industry represents the production of both chlorine and caustic soda. Chlorine is produced by an electrolytic charging process which also produces caustic soda and hydrogen [4] as co-products. The respondents argued that, since the producers of chlorine produce both chlorine and caustic soda "by definition, and not by choice or by coincidence, the economic reality is that they constitute a single chlor-alkali industry."[5]

The respondents also claim that, because there is no separate production process and because there are no separate industry-wide profit figures available, the Commission must analyze injury to the domestic industry in terms of information on the production of chlorine and caustic soda. The respondents cite 19 U.S.C. 1677(4)(D) (section 771(4)(D) of the Tariff Act of 1930) in support of their position. Section 771(4)(D) states:

> (D) Product Lines—The effect of subsidized or dumped imports shall be assessed in relation to the United States 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. If the domestic production of the like product has no separate identity in terms of such criteria, then the effect of the subsidized or dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes a like product, for which the necessary information can be provided.

We have not found the respondents' arguments persuasive because there are data published on an industry-wide basis concerning the chlorine industry alone. Furthermore, the staff has been able to gather from the domestic producers information on the chlorine production process and producers' profits with regard to chlorine.[6] Although chlorine and caustic soda are coproducts, there is a point in the production process where the chlorine gas is removed from the reaction stream. From this point on, chlorine and caustic soda are completely segregated and assume separate identities. Although we received limited profit-and-loss data from the domestic industry, for the most part this was not related to their inability to allocate data to their chlorine operations, but rather a failure to come forward with the information.

---

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, Feb. 10, 1982).

[2] Commissioner Frank dissenting.

[3] Material retardation of the establishment of an industry was not raised as an issue in this investigation.

[4] The amount of hydrogen produced in the electrolytic charging process is minimal in comparison to chlorine and caustic soda.

[5] Post Conference Brief of C-I-L, Inc. and C-I-L Chemicals, Inc. in Opposition to the Petition, p. 4.

[6] *See* Sodium Hydroxide, in Solution (Liquid Caustic Soda), from the Federal Republic of Germany, France, Italy, an the United Kingdom, inv. No. 731-TA-8 through 11 (Preliminary), U.S.I.T.C. Pub. No. 1040 (1980). In that investigation, the Commission relied on information gathered with regard to the production of caustic soda only. *See* also views of Vice Chairman Bill Alberger in that investigation.

Although we find the domestic industry to consist of all producers of chlorine in the United States, we have considered the impact of the LTFV imports on both the overall market and the domestic commercial chlorine market in reaching our determination in this investigation.

Within the overall chlorine market in the United States there are two submarkets: the commercial market and the captive market. The captive market accounts for approximately 60 percent of the chlorine produced. This chlorine is consumed internally for the production of other products. Approximately 40 percent of the chlorine produced domestically is sold in the open commercial market.[7]

All of the alleged LTFV imports are produced by C–I–L Chemicals, Inc. C–I–L's exports to the United States are sold almost exclusively in the open commercial market. Almost all of the other Canadian imports are sold to the captive domestic market. These involve transfers between divisions or subsidiaries or between a subsidiary and its parent. Thus, it is in the domestic commercial market where the allegedly LTFV imports compete.

No Reasonable Indication of Material Injury by Reason of LTFV Imports

Under section 733(a) of the Tariff Act of 1930,[8] the Commission is required to determine whether there is a reasonable indication that an industry in the United States is materially injured by reason of imports of the merchandise which is the subject of the investigation by the administering authority. The record demonstrates that, while there are indications that the domestic industry has been experiencing difficulties, imports of chlorine from Canada which are allegedly sold in the United States at less than fair value are not a cause of material injury.

In making its determination of whether there is a reasonable indication of material injury, the Commission must consider, among other factors, the volume of imports, the effect of imports on prices in the United States for the like product, and the impact of imports of such merchandise on domestic producers of the like product.[9]

U.S. production declined by 12 percent from 1979 until 1981, and then declined by another 14 percent in January–March 1982, relative to production for the corresponding period of 1981.[10] In contrast, available information indicates that production capacity increased by 3 percent from 1979–1981. Production capacity again increased by 3 percent in January–March 1982 relative to January–March 1981.[11] As a logical result of increased capacity coupled with decreasing production, capacity utilization declined from approximately 86 percent in 1979 to approximately 64 percent in January–March 1982.[12]

The most current data available on the quantity of U.S. producers' shipments are published by the Chlorine Institute.[13] These data reflect liquid chlorine shipments.[14] Shipments of liquid chlorine accounted for an average of 49 percent of U.S. production during the period under consideration and declined throughout the period, though not quite as sharply as U.S. production. The quantity of liquid chlorine shipped declined from 5.8 million short tons in 1979 to 5.4 million short tons in 1981, or by 7 percent. The quantity of liquid chlorine shipped declined again, by 14 percent, in January–March 1982 from that for the corresponding period of 1981. Information supplied by domestic producers in response to the Commission's questionnaires demonstrates similar trends.

On an aggregated basis, the weighted average unit value of the commercial shipments of those producers responding to the Commission's questionnaire declined from $100 per short ton in 1980 to $80 per short ton in January–March 1982, or by 20 percent.

Although no significant inventories of chlorine are maintained because there are tremendous costs and hazards related to the storage of the product, U.S. producers' inventories have increased, both quantitatively and relative to producers' shipments during the period under consideration.[15] In addition, apparent U.S. consumption of chlorine declined throughout the period under consideration. Data available to the Commission on U.S. employment and wages showed generally declining trends during the same period.

Six producers, accounting for an average of 19 percent of U.S. producers' shipments of liquid chlorine in 1981, provided profit-and-loss data on their chlorine operations to the Commission.[16] This information indicates that in the aggregate, the six firms providing the information were profitable in 1979, but unprofitable in 1980 and 1981. Together, the six firms earned an operating profit of $1.1 million in 1979, which represented 1.0 percent of net sales that year. These firms sustained losses of $4.1 million (3.6 percent of net sales) and $6.6 million (6.3 percent of net sales), respectively in 1980 and 1981. The three firms which supplied interim data for January–March 1982 reported an aggregate loss of $4.2 million (40.6 percent of net sales) compared to a loss of $2.0 million (14.9 percent of net sales) for the corresponding period of 1981.

The ratio of cost of goods sold to net sales rose from 91.1 percent in 1979 to 96.1 percent in 1981. This indicates that manufacturing costs rose at a faster rate than the selling price of chlorine during 1979–81.[17]

Causation

Section 733(a) of the Tariff Act of 1930 requires the Commission to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury—

by reason of imports of the merchandise which is the subject of the investigation by the administering authority. (Emphasis added).

We are unable to find a reasonable indication of injury under the statute because any injury experienced by the domestic industry is not caused by the allegedly less-than-fair value imports from Canada.

In determining whether material injury to an industry is "by reason of" alleged LTFV imports, the legislative history of Title VII of the Tariff Act of 1930 states that:

the Commission must satisfy itself that in light of all the information presented, there is a sufficient causal link between the less-than-fair value imports and the requisite injury. The determination of the ITC with respect to causation is, under current law, and will be, under section 735, complex and difficult, and is a matter for the judgment of the ITC.[18]

The record indicates that, although imports of chlorine from Canada steadily increased from 1979 through January-March 1982, the market

[7] Statement of Petitioners on Reasonable Indication of *Material Injury or Threat Thereof*, p. 3.

[8] 19 U.S.C. 1673b(a).

[9] Tariff Act of 1930, section 771(7), 19 U.S.C. 1677(7) (B) and (C).

[10] Report to the Commission, p. A–11.

[11] Ibid., p. A–13.

[12] Ibid., p. A–14.

[13] The Chlorine Institute is a trade association to which a majority of the domestic chlorine producers belong. In 1979, all but five of the thirty-six U.S. producers were members.

[14] These data exclude shipments of gaseous chlorine via pipelines. Shipments of gaseous chlorine have been estimated to account for approximately 5 percent of U.S. production of chlorine (see Report to the Commission, p. A–14). However, these data do include intercompany transfers involving the shipment of liquid chlorine.

[15] Report to the Commission, pp. A–18–19.

[16] Although the data are limited, this information is the best information available to the Commission.

[17] Report to the Commission, p. A–24.

[18] S. Rep. No. 249, 96th Cong., 1st Sess. 75 (1979).

penetration was minimal. The ratio of all imports of chlorine from Canada to apparent U.S. consumption increased from 1.1 percent in 1979 to 1.7 percent in 1981 and increased again in January-March 1982 relative to the ratio for the corresponding period in 1981. The ratio of imports from Canadian producers, which are unrelated to U.S. producers, to apparent U.S. open-market consumption similarly increased from 1979 to January-March 1982. Under the circumstances of this investigation, these ratios never reached a level capable of causing an adverse impact on the domestic producers.[19] [20]

The information on the record with regard to prices indicates that, on a weighted average basis, there is no underselling by the Canadians nor was there ever an established pattern of underselling. The weighted average price for domestically produced chlorine declined irregularly from $96 per short ton, f.o.b. plant in January-March 1980 to $75 per short ton, f.o.b. plant in January-March 1982. At the same time, the prices of Canadian imports were higher and showed an irregular increase.[21] By early 1981, the delivered prices of imported chlorine were substantially higher than the f,o.b. prices of the domestic buyers.[22] Thus, the allegations that the Canadian imports have suppressed and depressed the U.S. prices have not been substantiated.

We have considered the allegations of lost sales offered by the petitioner. We do not find them sufficient to establish an causal link between Canadian imports and the domestic industry's difficulties because the lost sales were isolated incidents, primarily limited to the municipal market which accounts for only 6 percent of the total U.S. chlorine market.[23] Further, the last verified lost sale occurred in June 1981.

Factors accounting for the decline in the domestic industry are the recession and the resulting decline in the demand for chlorine in the housing and automobile industries and the impact that the relatively strong demand for caustic soda has had on the supply of chlorine. Because of the coproduct relationship between chlorine and caustic soda, their supply and demand are permanently interwined. At present, the demand for caustic soda is relatively strong as compared to the demand for chlorine. In meeting the demands for caustic soda, chlor-alkali producers necessarily create an oversupply of chlorine which results in a drop in chlorine prices. Two factors cause a rapid decrease in chlorine prices under these circumstances. First, no significant inventories of chlorine can be maintained because of the tremendous costs and hazards involved in strong the product. Second, the high cost of disposing of chlorine either by removing it to special dump sites for hazardous and toxic materials or by recombining it with caustic soda to form salt makes it prohibitive to throw chlorine away it one cannot sell or keep it.

Given the failure of the petitioners in this case to demonstrate a causal link between the alleged LTFV imports and any injury the industry may be suffering, we conclude that other causes are responsible for the present condition of the domestic industry.[24] Additionally, information gathered by the Commission demonstrates that any injury was not due to the subject imports.

No Reasonble Indication of a Threat of Material Injury by Reason of LTFV Imports

Direction for determining whether there is a threat of material injury in antidumping investigations can be found in the legislative history of the Trade Act of 1974 and the Trade Agreements Act of 1979. This was recently elaborated upon in a Court of International Trade opinion in *Alberta Gas Chemicals, Inc. v. United States.*[25]

In *Alberta Gas,* the Court reviewed a determination made in a final investigaton, not a preliminary investigation. Undoubtedly, the Court's decision in that case offers instruction to the Commission in evaluating what factors are appropriate for reaching a determination based on threat of material injury in both preliminary and final investigations. The instant case, being a preliminary determination, involves the determination of whether there is a *reasonable indication* of a threat of material injury by reason of LTFV imports of chlorine from Canada. For the reasons set forth below, we find that the facts do not reasonably indicate that an industry in the United States is threatened with material injury by reason of alleged LRFV imports of chlorine from Canada.

Production of chlorine in Canada increased significantly from 1979 to 1980, but has declined since then. Canadian production increased from 1.1 million short tons in 1979 to 1.4 million short tons in 1980, or by 6 percent, but then declined slightly, by less than 1 percent in 1981. Canadian production then declined by 7 percent in January-February 1982 relative to that reported for the corresponding period of 1981.[26]

The capacity to produce chlorine in Canada increased significantly (by 38 percent) from 1979 to 1981. As far as it is known, capacity in Canada has remained unchanged since 1981. In 1981 total Canadian capacity for the production of chlorine was only 12 percent of U.S. capacity. The utilization of Canadian producers' capacity declined from 92 percent in 1979 to 78 percent in January-February 1982.[27]

The United States is the predominant market for Canadian exports. However, as a share of total production of chlorine in Canada, exports to the United States declined from 16 percent in 1979 to 13 percent in January-February 1982. U.S. importers reported that minimal inventories of chlorine were held as of March 31, 1982.

The factors that would lead us to a determination of a reasonable indication

---

[19] We are unable to cite the specific ratios as that information is confidential.

[20] Comm. Eckes' determination in this investigation that there is no causal connection between alleged LTFV imports and the condition of the domestic industry is based on his assessment of import penetration in conjunction with the absence of any underselling, pattern of underselling, or any significant lost sales as discussed in this opinion.

[21] We are unable to disclose the weighted average prices for the Candian imports inasmuch as that information is confidential.

[22] The majority of domestic producers provided the Commission only with prices, f.o.b. their plants, although delivered prices were also requested. The Canadian delivered prices, and the U.S. f.o.b. prices are comparable, however, because the U.S. prices reflect sales involving purchasers who are close to the producer (transcript of the conference, pp. 63.66).

[23] Report to the Commission, p. A–6.

[24] Senate Report, supra. note 3 at 75.

[25] 515 F. Supp 8/0 (CIT 1981). Chairman Alberger, Vice Chairman Calhoun, and Commissioner Stern note that in *Alberta Gas* the Court cited a section of the Senate Finance report on the Trade Act of 1974. (S. Rep. No. 1298, 93rd Cong., 2d Sess. 180 (1974)). The opinion states that the Congressional standard for determining likelihood of injury was articulated in this report. The report explained that future injury must be: based upon evidence showing that the *likelihood is real and imminent* and not on mere supposition, speculation or conjecture. [Emphasis added.] In 1979, the Congress again made its intent clear by replacing the "likelihood of injury" language with language directing the Commission to determine whether there exists a "threat of material injury." (19 U.S.C. 1673 (1980)). In that regard, Congress indicated that there must be "information showing that the threat is real and injury is imminent, not a mere supposition or conjecture." (S. Rep. No. 249, 96th Cong., 1st Sess. 88, 899 (1979); H.R. Rep. No. 317, 96th Cong., 1st sess 47 (1979)). The Court interpreted the legislative history to mean that a determination of a threat of material injury should not be based on future events that are uncertain or depend on several contingencies. A determination of a threat of material injury should not depend on a "mere *possibility* that injury might occur at some remote future time."

In applying this standard to the present investigation, it should be clear that the standard for threat of material injury is no different from that articulated by the Court in *Alberta Gas.* We are, however, concerned with met, not with a final showing of threat.

[26] Report to the Commission, p. 27.

[27] I bid.

of threat of material injury are not present in this case.

Views of Commissioner Eugene J. Frank

Affirmative—Material Injury

On the basis of the record investigation No. 731–TA–90 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of chlorine from Canada which are allegedly sold at less than fair value.

Overview

First, I would like to note that the statute and legislative history in title VII investigations require the Commission in its preliminary determinations for both antidumping and countervailing duty investigations to exercise only a low-threshold test based upon the best information available to it at the time of such determination that the facts reasonable indicate that an industry in the United States could *possibly* be suffering material injury, threat thereof, or material retardation.[28]

The 45-day preliminary injury determination compressed time period was, in my view, intended by Congress to screen out those petitions where it was readily apparent, albeit based on a necessarily incomplete record, that there was no indication of possibly establishing injury even with adequate time, a thorough and fully developed investigation and record, and comprehensive hearing before the Commission. As Chairman Alberger stated in testimony on November 12, 1981, before the House Ways and Means Trade Subcommittee:

> The "reasonable indication of material injury" standard is low enough that it does not force domestic industries to present more than a *prima facie* case before there is a full adjudication.

Such a standard applies equally to antidumping and countervailing duty investigations inasmuch as the statutory language is the same and given the intent of Congress for the ITC to follow the same general practices in both the antidumping and subsidy cases.

Of course, it is important to keep in mind that the Tariff Act of 1930 and its legislative history are quire clear that the "material injury" to be ascertained in these investigations is defined to mean harm which is "not inconsequential, immaterial, or unimportant".[29] Section 771(7)(B) of the Act provides factors the Commission shall consider, among other factors:

> (i) the volume of imports of the merchandise which is the subject of the investigation,
> (ii) the effect of imports of that merchandise on prices in the United States for like products, and
> (iii) the impact of imports of such merchandise on domestic producers of like products.[30]

Within the context of evaluating the volume of imports of the merchandise which is subject to the investigation and its effect on prices, in assessing impact in the affected industry, the language of the statute makes it clear that economic factors cited therein are not all-inclusive to wit: " * * * the Commission should evaluate all relevant economic factors which have a bearing on the state of the industry, including but not limited to— * * * " [31] Legislative history on this point is also quite clear:

> In determing whether an industry is materially injured, as that phrase is used in the bill, the ITC will consider, to the extent permitted by information submitted to it in a timely manner, the factors set forth in section 771(7)(C) and (D) together with any other factors it deems relevant.[32]

There is also recognition in the Statute and legislative history that discretion necessarily must be given to the Commission to determine the significance to be assigned to a particular factor within the framework of other facts of each specific case.

> Neither the presence nor the absence of any factor listed in the bill can necessarily give decisive guidance with respect to whether an industry is materially injured, and the significance to be assigned to a particular factor is for the ITC to decide. [33]
> It is expected that in its investigation the Commission will continue to focus on the conditions of trade, competition, and development regarding the industry concerned. [34]

A word on the issue of causation is pertinent, because I feel there is some misunderstanding about just what is required by law in this crucial area in these preliminary investigations. The causation element is that material injury must be "by reason of" the subsidized or less-than-fair-value imports: the linkage language "by reason of" directing an examination of the effects of such imports on the domestic industry. Legislative history makes it clear that Congress did not intend for the Commission, in examining whether a causal link exists, to weigh the injury which might be incurred from such imports against other factors which may be contributing to the overall injury to an industry, although the Commission should take into account evidence alleging that such harm which was attributed to such imports was attributable to other factors. Moreover, the petitioner is not required to "bear the burden of proving the negative" that material injury is in fact *not caused* by such other factors. Further, the Commission is not required to make any precise mathematical calculations with respect to the harm associated by other factors. [35] Finally, to quote directly from the House Report:

> In short, the Committee does not view overall injury caused by unfair competition, such as dumping, to require as strong a causation link to unfairly competitive imports as would be required for determining the existence of injury under fair trade conditions. [36]

I would like to emphasize an important point, namely, that the Commission's charge in these *preliminary investigations* in evaluating the impact of alleged unfair imports, within the framework of the aforementioned discretion accorded it in analyzing relevant factors and establishing a causation link, must be undertaken within the less rigorous standard that the facts on the record and information available to it *reasonably indicate* that the affected domestic industry could *possibly be suffering material injury, threat thereof, or material retardation.* [37]

This less rigorous standard which which was, as I have said earlier, intended by Congress in my view to be applied in a 45-day compressed time frame to screen petitions devoid of any merit where there was no indication of possibly establishing injury even with adequate time, must be applied with caution and equity, not in an arbitrary or capricious fashion, with the reasons set forth adequately documented.

Reasons for Affirmative Determination of Material Injury

The basic reasons for my determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of chlorine from Canada which are allegedly sold at less than fair value are the following:

---

[28] H.R. Report No. 96–317, 96th Cong., 1st Sess., p. 52 (1979).

[29] Report on H.R. 4537 of the Senate Committee on Finance, p. 88.

[30] 19 U.S.C. 1677(7)(B).

[31] 19 U.S.C. 1677(7)(C).

[32] Report on H.R. 4537 of the Senate Committee on Finance, p. 88.

[33] Id., and 19 U.S.C. 1677(7)(E).

[34] Senate report, p. 88.

[35] Report of the House Ways and Means Committee on H.R. 4537, p. 47.

[36] Id.

[37] Having found a reasonable indication of material injury by reason of these imports in this investigation, I did not reach the issue of threat.

1. The major Canadian exporter of noncaptive chlorine to the United States made bids and received orders in the United States (directly and through its U.S. subsidiary) at prices which I conclude could have been at less than fair value. The Secretary of Commerce should make this final determination, if the investigation should continue and resolve these allegations. Some winning bids by this Canadian chlorine exporter were made in the municipal sector of the market in such cities as Atlanta. The "net back" value of some orders (after deducting freight cost) as bid and won by the major Canadian noncaptive chlorine exporter do not appear to cover adequately production costs. Quotation to a large Canadian municipality appears to show a much higher price quotation for chlorine in the Canadian city despite the lower freight costs and despite practices of absorbing freight cost in part. Even with some absorption of freight costs to meet U.S. competitors that have chlorine plants closer to the municipalities, it appears that aggressive price competition caused sales at less than fair value into the highly visable U.S. municipal market.

I concluded that this caused a price rippling effect on chlorine prices in some of the other United States markets because industrial and other customers were freqnently aware of chlorine prices bid in the municipal markets, and utilized their knowledge of such prices to seek significant reductions in prices quoted to their industrial corporation if these prices were higher. This awareness is supported by testimony and submissions provided in this investigation, some of which are confidential. In a period of soft demand and recession, especially with major final product user industries such as the automotive and construction industries really depressed (these industries use products that are produced from chlorine), there is probably a very inelastic demand for chlorine. Hence, when prices decline, an increase in demand for chlorine is not sharply reflected in volume increases. During 1980, the major Canadian exporter of noncaptive chlorine aggressively penetrated into the United States market based frequently on being a low-bidder in the municipal market. The quantity of noncaptive chlorine being sold into the municipal market was visible and significant enough to exert pressures on U.S. producers to hold or reduce their prices. Instances exist where "meet-or-release" clauses, despite the fact that these generally refer to meeting other U.S. chlorine producers' bid or offering prices, played a factor in forcing involved U.S. chlorine producers to meet the Canadian noncaptive chlorine producers' prices or have all or portions of a contract's volume reduced. Hence, I conclude there has been price suppression or depression because of increased aggresive activity from a Canadian supplier of noncaptive chlorine to the United States market. It is not adequate to show some Canadian noncaptive chlorine producer's price increases to customerrs in the pulp and paper industry and overlook the price trends utilized with municipal market in some instances. It is not necessary to say there were only a few instances of alleged less-than-fair value (LTFV) sales. If any sales took place at alleged LTFV, then this would be reason to have an affirmative finding that there is reasonable indication that an industry in the United States is materially injured by reason of exports of chlorine from Canada.

Staff interviews with customers relative to lost sales did indicate that price frequently was an important or the most important factor in the awarding of a contract. Canadian delivery schedules or availabilities, Canadian expertise in pulp and paper chlorine applications and technology, and quality chlorine railroad tank cars usage by the Canadians are only some of reasons some U.S. chlorine customers chose the major Canadian noncaptive chlorine producer to supply their company or municipality. There were some instances where the Canadian noncaptive chlorine producer's price was higher, but there was adequate evidence of alleged LTFV pricing to vote affirmatively and thus seek a final investigation determination.

It is not my place in any preliminary investigation to be involved in judging any subsidies whether from different governmental levels, or in electrical or other raw material costing practices, or in capital and interest rate areas. These determinations are made relative to the existence and rate of foreign government subsidies by the U.S. Department of Commerce.

In this preliminary investigation, it is vitally important to realize that we are considering questions relative to only chlorine. The fact that the Canadian share of the United States market is small does not make the impact of aggressive and alleged LTFV pricing in a relative inelastic demand situation any less damaging. The small addition of new supply can cause a decline in prices because of aggressive pricing in a selected visable market—the municipal market.

2. High demands in Canada and the United States for caustic (soda)—a coproduct of the chlorine production process-precipitated an over-production of chlorine relative to demand. Caustic (soda) end-use markets are frequently different from those for chlorine. Increased production of caustic causes extra production of chlorine which may not be demanded by end-user industries. Because chlorine is corrosive and potentially hazardous if combined with certain other elements, very little storage capability or inventory is maintained. Hence, there is an incentive for companies to ship chlorine at what is alleged to be below the cost of production. The cost of physical dumping or handling disposal may not be covered. If a product is in surplus and there are environmental and other disposal costs or problems, this must be considered as costs and must not lead to abnormal pricing tactics that almost give away the chlorine and thereby depress prices.

To cross the United States-Canadian border with this "temporary" surplus of chlorine is in essence dumping a Canadian disposal problem of their surplus into the United States. The fact that a major Canadian exporter of noncaptive chlorine expanded plant capacity beyond the immediate and short-term internal Canadian market needs is not the fault of the United States suppliers of chlorine. The fact that technology changes may threaten some of the demand for chlorine in Canada in the future and especially in the pulp and paper industry is not the fault of the United States chlorine suppliers. The fact that the United States is the only significant export market for Canadian noncaptive "surplus" chlorine which is produced when there is significant demand for caustic (soda) is not the fault of United States chlorine producers. Many United States producers also have chlorine production facilities in Canada. The fact that not all the U.S. chlorine producers joined in the petition or this action is not significant. The fact that there are three major petitioners is sufficient to indicate alleged material injury, in this preliminary case, to major chlorine suppliers. There are a variety of different buyers and it is important to measure like methods of shipments for chlorine, which is a fungible product, without significant differences. I find that price comparisions with pipeline delivery of chlorine, when the Canadian noncaptive major chlorine suppliers utilized rail tank cars, is inappropriate. Delivery costs and long-term pipe-line commitments do matter.

The United States should hence not allot faulty potential foreign demand analyses to cause a disposal problem in United Stated markets through aggressive and alleged LTFV pricing. I am not making any comments on Canadian caustic (soda) being supplied to the United States market or on whether there is any evidence that this is related to the past Canadian plant expansion by the major Canadian noncaptive chlorine exporter.

3. It is important to note that with minor exceptions, United States chlorine producers' shipments of chlorine have declined generally in the 1979 through March 1982 period and U.S. chlorine production has declined while production capacity rose during the same above period. Capacity utilization in the U.S. has declined significantly during this same above period. The average unit value of chlorine has declined since 1980. The small inventory level of U.S. chlorine producers, as a percent of shipments, has risen to high levels by traditional standards. The share of total U.S. apparent consumption of the significant Canadian exporter of noncaptive chlorine has risen and exports to the United States expanded generally in the January 1979-March 1982 period. U.S. firms supplying information on income and profit or loss accounted for 19 percent of total shipments of liquid chlorine in 1981 and these firms' aggregate operations on chlorine were unprofitable in 1980 and 1981. The Canadian major noncaptive chlorine exporter intensified its marketing effort into the United States municipal market in particular in 1980 and probably had a significant impact on United States chlorine producers' profits, operating rates (capacity utilization), and pricing strategies. I find there is evidence that the volume of chlorine imports rose, the effects of these imports of Canadian chlorine on U.S. chlorine, which is a like product, was significant, and that there was a significant impact on domestic producers of like chlorine products.

Additional details on the basis of more complete returns of the questionnaires, investigative efforts and company contacts or confirmations should occur if the investigation were to continue. The Commission should not lightly dismiss this investigation and leave these budding questions still-born. Major financial or other strength of a major foreign affiliated company backs the smaller Canadian company which is a major exporter of noncaptive chlorine. There needs to be more than the looking at the last year's U.S. prices relative to the Canadian supplier's United States bids. There needs to be recognition by the Commission that 1980 pricing levels of the Canadian companies in large measure started the recent price and hence profit pressures on U.S. companies which, because of the nature of the industry and sales contracts, responded to the Canadian price aggressiveness as was referred to by United States purchasers. The United States chlorine producers were unable to obtain chlorine price increases on three separate occasions. Employment was down in 8 U.S. establishments producing chlorine for which responses were received by the Commission in this measurement area.

In my opinion, there is a reasonable indication of material injury to the United States chlorine industry as evidenced by the aggressive pricing by the major Canadian noncaptive chlorine exporter. If there has been or still is over-production of chlorine in Canada to satisfy caustic demands, then adjustment of this should not be in the form of alleged LTFV imports which probably also "dump" the what-would-have-been Canadian disposal problem into the American market place rather than building hazardous inventories in Canada or recombining caustic and chlorine to store in Canada more safely but at a significant Canadian loss.

Conclusion

By not finding material injury in this investigation, I believe the Commission has by-passed the low threshold of injury and refrained from learning more about aggressive pricing impacts and alleged abuses of United States trade laws. In the long-run, the United States consumers and national security may suffer if investigations are unable to at least gather additional facts or enough information so as to be truly representative. It is improper, in my opinion, to say that the response to a questionnaire is too low or too late or represents too little of an industry and then to apply what I consider to be too high a threshold. If there are unanswered questions, these should be answered. Non-frivolous investigations where *significant* factors point to alleged *significant* LTFV sales should be allowed to proceed to final investigations. I am of the opinion that the facts of this investigation as cited above cry out for a final investigation to be conducted and for a final Commission determination. I believe the United States has nothing to fear if the Commission learns more truths and facts about a basic United States industry and its trade patterns with any country. It is justified.

By order of the Commission.

Issued: May 20, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-14358 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-49 (Final)]

Fireplace Mesh Panels From Taiwan

Determination

Based on the record [1] developed in investigation No. 731-TA-49 (Final), the Commission unanimously determines that an industry in the United States is materially injured by reason of imports from Taiwan of fireplace mesh panels,[2] which the Department of Commerce has determined are being, or are likely to be, sold in the United States at less than fair value (LTFV).[3]

Background

On January 22, 1982, the Department of Commerce made a preliminary determination that there is reason to believe or suspect that fireplace mesh panels from Taiwan are being sold in the United States at LTFV within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673). Accordingly, on January 27, 1982, the Commission instituted a final antidumping investigation under section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)) to determine whether 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 the imports of such merchandise into the United States.

Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. and by publishing the notice in the **Federal Register** on February 3, 1982, (47 FR 5055). The hearing was held in

---

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (47 FR 6190, February 10, 1982).

[2] For the purposes of this investigation, fireplace mesh panels are defined as precut, flexible mesh panels, both finished and unfinished, which are constructed of interlocking spirals of steel wire and are of a kind used in the manufacture of safety screening by U.S. manufacturers of fireplace accessories and zero-clearance fireplaces. Fireplace mesh panels are provided for either in item 642.87 or item 654.00 of the Tariff Schedules of the United States depending on their stage of processing.

[3] The retardation of the establishment of an industry in the United States was not an issue in this investigation.

Washington, D.C. on April 13, 1982, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

On the basis of the record in investigation No. 731-TA-49 (Final), we unanimously determine that an industry in the United States is materially injured by reason of imports of fireplace mesh panels from Taiwan which are sold in the United States at less than fair value. Our determination in the present case is based on the considerations set forth below.

Domestic Industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." [4] A "like product" is defined as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle." [5]

The products imported at less-than-fair value (LTFV) are pre-cut panels of fireplace mesh. These imported panels generally have rings attached for mounting, are finished with black oxide, and are contructed of 19-to-21 gage wire. Imported fireplace mesh panels are incorporated into fireplace screens or zero-clearance fireplaces by manufacturers of those items after importation into the United States.

The domestic fireplace mesh panels typically have rings attached for mounting, are constructed from wire which ranges from 19-to-21 gage, and are finished with black enamel.[6] Like the imported panels, they are used by manufacturers of fireplace screens and zero clearance fireplaces.

The size of fireplace mesh panels demanded by fireplace screen and zero-clearance fireplace manufacturers varies according to the design of the product in which they are to be used. Attaching mounting rings is also a relatively minor modification to the basic mesh panel. Most panels are sold with the rings attached, although customers may desire panels without rings for particular uses.

As a general rule, the type of finish used in fireplace mesh panels may be either black oxide or black enamel. The majority of imports have a black oxide finish while the majority of domestic products have a black enamel finish.[7] In either case, the finish is used to prevent corrosion of the metal. The gage of wire used by a manufacturer varies somewhat, although in a fairly narrow range.[8] The wire used must be flexible yet sturdy enough to retain its shape and not deteriorate when exposed to the heat.

These variations in fireplace mesh panels are minor.[9] Thus, we find that the domestic products that are like the imported fireplace mesh panels are fireplace mesh panels of any size, with or without rings, with black oxide or black enamel finish, and of any gage wire which may vary from 19-to-21 gage.[10] Based on the above, we have determined that the industry in this investigation is composed of domestic producers of fireplace mesh panels.

Material Injury by Reason of LTFV Imports

Section 771(7)(B) of the Act directs that the Commission in making its material injury determination shall consider, among other factors, the impact of the imports on the domestic industry, the volume of these imports, and their impact on domestic prices.

During the period covered by this investigation, the fireplace mesh panels industry has experienced a decline in key indicators. Between 1978 and 1981, domestic production declined 72 percent from 10.6 to 2.9 million square feet and capacity utilization dropped from 87 percent to 27 percent.[11] Commercial shipments fell 78 percent during the same period from 4.6 to 1.0 million square feet.[12] Four producers ceased manufacturing fireplace mesh panels and industry employment declined from 91 workers in 1978 to only 16 workers in 1981. Hours worked dropped concomitantly.[13] Inventories of domestic producers, which are not common in this industry, were larger than usual in 1981.[14]

Profit and loss data, though available for only four firms representing 24 percent of production, further confirm the problems confronting U.S. producers of fireplace mesh panels.[15] The profit and loss experience of the U.S. producers on their operations declined sharply each year during the period under investigation. Net sales declined 83 percent from $2.7 million in 1978 to $450,000 in 1981. Net operating profits followed the same trend with U.S. producers showing a profit of $522,000 in 1978 and a loss of $50,000 in 1981.

The demand for fireplace mesh panels declined between 1978 and 1981. The eroding position of the U.S. fireplace mesh panel industry coincides with a dramatic downturn in consumption related to the drop in housing starts and saturation of the glass-door fireplace screen market. The volume of imports also decreased but market penetration by these imports increased substantially. The ratio of imports to apparent consumption [16] has increased since 1979 to a level of 43.2 percent in 1981. The ratio of imports to open-market consumption increased even more during the same period to 68 percent of the market.[17]

The margin of underselling was significant throughout the period covered by this investigation. In 1978, LTFV imports undersold U.S. products by a weighted average margin of 45 percent. In 1981, the weighted average margin of underselling was 29 percent.[18]

---

[4] 19 U.S.C. 1677(4)(A).

[5] 19 U.S.C. 1677(10).

[6] Report, p. A-3.

[7] Report, p. A-2 and A-3.

[8] For example, the diameter differential between 19- and 21-'age wire is roughly .009 inch. Report, p. A-21.

[9] Senate Comm. on Finance, Trade Agreement Act of 1979, S. Rept. No. 96-249, 96th Cong., 1st Sess. 90-91 (19/9).

[10] Report, p. A-3.

[11] Report, p. A-9 and A-10.

[12] Report, p. A-10 to A-12.

[13] Data on employment and hours worked do not include information on any of the four manufacturers which ceased production of this product. Report, p. A-17.

[14] Report, p. A-14.

[15] Report, p. A-16.

[16] The report presents data on apparent U.S. consumption of fireplace mesh panels and on apparent U.S. open-market consumption. Apparent U.S. consumption includes U.S. producers' captive consumption of fireplace mesh panels, whereas apparent open-market consumption reflects only open-market transactions. In this case imports have displaced some captive production, thus competing in the captive market as well as in the open market. Thus, the Commission has focsed on the data on apparent U.S. consumption as they reflect the full impact of the imported product.

[17] Report, p. A-21.

[18] Chairman Alberger and Commissioner Stern note that the relatively high margins of underselling and low weighted average LTFV margins determined by the Department of Commerce raise the question whether the injury caused by the subject imports is by reason of the LTFV margins or whether it is attributable to other competitive factors not actionable under the antidumping laws. See e.g. Views of Commissioners Bill Alberger and Daniel Minchew in *Welded Stainless Steel Pipe and Tube from Japan*, Inv. No. AA1921-180, USITC Pub. 899 (July 1978) and Additional Views of Commissioner Paula Stern in *Carbon Steel Wire Rod from Brazil, Belgium, France and Venezuela*, Inv. No. 731-TA-88 (Preliminary), USITC Pub. No. 1230 (March 1982). In the present case, however, we are unable to conclude with any reasonable degree of precision that the dumping margins do not contribute materially to the underselling margins and the consequent injury to the industry. The domestic and imported fireplace mesh panels are not strictly fungible, and any price comparisons between the two are subject to several important qualifications, such as gage, size, finish, and other perceived differences in quality and service. (See Report p. A-21 and 22.) These qualifications to our pricing data convince us that we should not in this

Competition in this industry is often based upon a combination of factors including price, availability and quality.[19] Further, margins of underselling are based on data for comparable, but not always identical, merchandise. As we had already observed, fireplace mesh panels possess a considerable number of variable product characteristics, such as: the gage of wire used, spiral diameter and pitch, type of finish, panel size, pleating, and the attachment of pull tassels or rings for mounting the panel. This diversity of characteristics has made price comparisons of panels difficult. For example, the Commission staff estimates that the cost of the metal content of the mesh could vary by $4.00 per 100 square feet, based on using wire ranging from 19-to-21 gage, and enamel panel finish commands a premium of roughly $5 per 100 square feet over black oxide.[20] However, regardless of these variable product characteristics, the data provide a clear indication that significant underselling is taking place.

Lost sales information further demonstrates the results of price undercutting. For instance, a U.S. manufacturer of fireplace screens which accounts for a significant share of apparent open-market consumption of fireplace mesh panels switched entirely from the domestic product in 1978 to the LTFV imports in 1981. Another important consumer of fireplace mesh panels also shifted almost entirely to the LTFV imports during this period.[21]

Already suffering from a serious decline in the market, the problems of the domestic firepace mesh panels industry have been compounded by competition from LTFV imports from Taiwan. The information before the Commission on import penetration, underselling and lost sales indicates that there is material injury in the United States industry by reason of the LTFV imports.

By order the Commission.

Issued: May 21, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-14360 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

---

case rely too heavily on a comparison of our calculated margins of underselling with the LTFV margins determined by Commerce.

[19] Commissioner Stern notes that the petitioner stated that the domestic industry can compete with underselling of 10–15 percent by the imports. Hearing transcript (Final) at p. 64.

[20] Report, p. A-22.

[21] Report, p. A-26.

[332-142]

Impact of Foreign Trade-Related Performance Requirements on U.S. Industry and Foreign Investment Abroad

AGENCY: International Trade Commission.

ACTION: In accordance with he provisions of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the Commission has instituted investigation No. 332–142 for the purpose of obtaining information in order that it might advise the U.S. Trade Representative (USTR) as to the impact of foreign trade-related performance requirements on U.S. trade, production, employment, and foreign investment. The investigation will cover three sectors: (1) motor vehicles and equipment, (2) chemicals, including pharmaceuticals, and (3) office and computing machines. In addition, an inventory of U.S. trade-related performance requirements, if any, will be prepared in response to the USTR request.

EFFECTIVE DATE: May 19, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Estes, General Manufactures Division, Office of Industries (202–724–0977).

SUPPLEMENTARY INFORMATION: On April 21, 1982, the USTR requested that the U.S. International Trade Commission provide advice, pursuant to section 332(g) of the Tariff Act of 1930, on the impact of foreign trade-related performance requirements on U.S. trade, production, employment, and foreign investment. The USTR request suggested that the investigation be done on a sectoral basis covering sectors such as motor-vehicles, chemicals, pharmaceuticals, and high technology goods. The USTR indicated particular concern over the relatively higher incidence of performance requirements in advanced developing countries. An inventory of any existing U.S. trade-related performance requirements on inward foreign investment was also requested.

For the purposes of this investigation, "trade-related performance requirements" are requirements placed upon a foreign affiliate as a condition for operating in the host country such as (1) requirements for the export of a minimum level of the finished manufactured product, (2) the required use of a minimum level of domestic components in an item to be manufactured (a so-called "local content" rule), or similarly (3) a specific restriction on the level of imports permitted.

Public hearing.—A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on August 10, 1982, to be continued on August 11, 1982 if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, August 4, 1982.

Written submissions.—In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter 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, written statements should be submitted at the earliest practicable date, but no later than August 20, 1982. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: May 20, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc 82-14357 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-7]

Molasses From France

Determination

Based on the record[1] developed in investigation No. 104–TAA–8, the Commission unanimously determines pursuant to section 104(b) of the Trade Agreements Act of 1979, that an industry in the United States would not be materially injured, or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by

[1] The "record" is defined in § 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

reason of imports of molasses from France covered by countervailing duty order T.D. 71–188, if the order were to be revoked.

Background

On March 28, 1980, the U.S. International Trade Commission received a request from the Delegation of the Commission of the European Communities for an investigation under section 104(b) of the Trade Agreements Act of 1979.

On October 28, 1981, the Department of Commerce published a notice in the **Federal Register** (46 FR 53200) of the final results of its first annual review of the net amount of the subsidy applicable to molasses from France. Subsequent to that determination by Commerce, the U.S. International Trade Commission, pursuant to section 104(b)(2) of the Trade Agreements Act, on January 26, 1982, instituted investigation No. 104–TAA–8 on Molasses from France, which currently enters under item 155.40 of the Tariff Schedules of the United States, to determine whether an industry in the United States would be materially injured or threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of molasses covered by the countervailing duty order if the order were to be revoked.

Notice of the institution of the Commission's investigation and of a public hearing was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. 20436, and by publishing the notice in the **Federal Register** of February 3, 1982 (47 FR 5057). The hearing was held on April 5, 1982, in Washington, D.C. No testimony was offered by interested parties. No formal submissions were received from domestic producers. The Commission vote on this case was held in public session on May 6, 1982.

Views of the Commission

Imports of molasses from France have been subject to a countervailing duty order since June 19, 1971.[2] Based on the record developed in this investigation, we conclude that the revocation of this countervailing duty order would not result in material injury, threat of material injury, or the material retardation of the establishment of an industry in the United States.

[2] T.D. 71–118, 36 FR 8365.

The Domestic Industry[3][4]

Our initial consideration is the definition of the relevant domestic industry against which the impact of the subject imports must be assessed. Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as "the domestic producers as a whole or a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is, in turn, defined in section 771(10) as meaning "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title."

The scope of the outstanding countervailing duty order under consideration in this investigation covers "molasses from France." Historically, most imported molasses from France has been of the type derived from processing sugar beets into sugar and has been used for the production of citric acid. Sugar-beet molasses consists of about 48 percent sugar and 52 percent impurities. Molasses derived from sugar-cane generally has a similar sugar content, but its impurities are different and it is not used in citric acid production. We therefore have defined the appropriate "like product" as sugar-beet molasses. The relevant domestic industry under section 771(4)(A) consists of the 10 firms processing sugar from sugar beets at 42 plants in the United States located in Montana, Wyoming, Kansas, Colorado, Nebraska, Ohio, California, Minnesota, North Dakota, Idaho, Arizona, Oregon, Michigan, and Texas.

[3] In Investigation No. 104–TAA–7 involving sugar the Commission considered the domestic industry to include growers as well as processors. We did not include growers in this case because molasses is derived as a by-product of making sugar and is not the product for which the grower raises sugar cane or sugar beets. Vice Chairman Calhoun is of the view that an important additional factor is that molasses product is, for the greatest part, derivative of the primary activity, sugar production. As well, molasses demand is largely independent of sugar demand. Thus the impact of imports on molasses is not likely to affect sugar production.

[4] It is the view of Vice Chairman Calhoun that, since this case arises under section 104 of the Trade Agreements Act of 1979, the task before the Commission is to determine whether a domestic industry would be materially injured or threatened with material injury "by reason of imports of the merchandise subject to a countervailing duty order if the order were to be revoked." Similarly, under Title VII of the Tariff Act of 1930, the Commission determines whether a domestic industry is materially injured or threatened with material injury by reason of the imported merchandise under investigation. Since no standards or guidance is given for section 104 determinations, he has in prior cases used the standards and analytical methodology employed in our Title VII cases for guidance in determining what would happen if duties were to be revoked. In this case, the standards and methodology of Title VII are particularly useful as there have been no duties imposed in the past year, making data from that period especially helpful in predicting what would occur without the duty. Thus, when Title VII language and theories arise in this opinion it is, for his purposes, based on the above rationale.

Condition of the Industry

Since sugar-beet molasses is a byproduct of sugar production, there are no separate profit and loss or employment data available for the industry. Other factors indicate, however, that the industry performance has been favorable in recent years. Domestic sugar-beet molasses production increased irregularly from 946,174 short tons in 1978 to 996,302 short tons in 1981. Utilization of capacity was 88.9 percent in 1981, up 7.6 percentage points from 1978 levels. Shipments in 1981 were below the peak level reached in 1979, but were still above 1978 and 1980 levels.[5]

Likely Effect of Removal of the Countervailing Duty Order

The Department of Commerce has determined that for the period from January 1, 1980 through December 31, 1980, there was no net French subsidy on sugar-beet molasses.[6] Therefore, the deposit of estimated countervailing duties on French imports has been waived until the next administrative review in June 1982.

Monitor Sugar Company and Northern Ohio Sugar Company, two of the original petitioners, have requested that the Commission terminate its investigation on imports of French molasses.[7] No other domestic producer made any formal submission either to the Commission or to the Department of Commerce during the recent review of the outstanding order. Nor did the Commission receive any submission from the Department of Agriculture. This lack of participation by the domestic

[5] Report p.A–10.

[6] Section 751(a)(1) of the Tariff Act of 1930 provides that Commerce shall conduct annual reviews of the amount of outstanding countervailing duty orders. For the period of Commerce's review, the EC did not make any restitution payment on exports of molasses from France to any country including the United States. The program of restitution payments, which has been determined to be countervailable, remains in effect. The resulting waiver of deposit will remain in effect only until the next administrative review, scheduled for June 1982. Section 104 of the 1979 Act requires the Commission to determine whether there is any material injury or threat or material injury "by reason of imports of the merchandise subject to the Order." It is therefore appropriate for the Commission to continue a section 104 investigation so long as the order remains outstanding and the subsidy can be resumed.

[7] Report, Appendix C.

producers of molasses suggests that they do not anticipate material injury or the threat of material injury as a result of revocation of the order under review. Our findings support this view.

Imports of sugar-beet molasses from France in terms of quantity, value, and share of apparent domestic consumption substantially declined from 1978 to 1981.[8] Pfizer, Inc., the only U.S. importer of sugar-beet molasses, uses the product in the manufacture of citric acid. From 1978 to 1980, Pfizer purchased both domestic and imported sugar-beet molasses. No domestic molasses was purchased by Pfizer in 1981. Because it could offer molasses to meet Pfizer's requirements at lower prices, the Netherlands rather than France was the beneficiary of Pfizer's shift to total reliance upon imports. The price of molasses from the Netherlands was significantly below that for the same product Pfizer purchased from France.[9] Moreover, Pfizer claims that it has become increasingly difficult to acquire French-produced molasses meeting minimum sugar-content requirements. Consequently, as a share of Pfizer's consumption, imports from France declined markedly while imports from the Netherlands increased dramatically between 1980 and 1981.

Considering these developments, there is no reason to anticipate significant changes in the volume of French imports as a result of revocation. Revocation of the countervailing duty order will not adversely affect the performance of the domestic industry in the foreseeable future. Thus, we have concluded that the domestic industry would not be materially injured or threatened with material injury if the countervailing duty order were to be revoked.

By order of the Commission.

Issued: May 14, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-14362 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 104-TAA-7]

Sugar From the European Communities

Determination

Based on the record [1] developed in investigation No. 104-TAA-7, the Commission determines pursuant to section 104(b) of the Trade Agreements Act of 1979, that an industry in the United States would be threatened with material injury by reason of imports of sugar from the European Communities covered by countervailing duty order T.D. 78-253, if the order were to be revoked.[2]

Background

On March 28, 1980, the U.S. International Trade Commission received a request from the Delegation of the Commission of the European Communities for an investigation under section 104(b) of the Trade Agreements Act of 1979.

On September 23, 1982, the Department of Commerce published a notice in the **Federal Register** of the final results of its first annual review of the net amount of the subsidy applicable to sugar from the European Communities. Subsequent to that determination by Commerce, the U.S. International Trade Commission, pursuant to section 104(b)(2) of the Trade Agreements Act, on January 27, 1982, instituted investigation No. 104-TAA-7 on Sugar from the European Communities, which currently enters under item 155.20 and item 155.30 of the Tariff Schedules of the United States, to determine whether an industry in the United States would be materially injured or threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of sugar covered by the countervailing duty order if the order were to be revoked.

Notice of the institution of the Commission's investigation and of a public hearing was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C. 20436, and by publishing the notice in the **Federal Register** of February 3, 1982 (40 FR 5058). The hearing was held on April 5, 1982, in Washington, D.C., and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission vote on this case was held in public session on May 6, 1982.

Views of Commissioners Eckes, Frank, and Haggart

Imports of sugar from the European Community (EC) have been subject to a countervailing duty order [3] since July 31, 1978.[4] Based on the record developed in this investigation, we conclude that the revocation of this countervailing duty order would result in the threat of material injury to the sugar industry in the United States.

In making this determination, we focused particularly on the EC sugar policy, the large surplus of EC sugar available for export, and the volatility of the domestic and international sugar markets.

The Domestic Industry

Our initial consideration is the definition of the relevant domestic industry against which the impact of the subject imports must be assessed. Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as: "The domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." The term "like product" is, in turn, defined in section 771(10) as meaning: "A product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title."

The scope of the outstanding countervailing duty order under consideration covers generally "sugar from the EC." Sugar is derived from the juice of sugar cane or sugar beets. The refined sugar product derived from sugar beets is not distinguishable from that of sugar cane inasmuch as both are virtually chemically pure sugar.[5] We conclude that the like product for purposes of this investigation consists of both beet and cane sugar.

Because of the close relationship among growers, processors, and refiners in the production of sugar, they all may be affected by the removal of the countervailing duty order. Therefore, we have determined that the "industry" for purposes of section 771(4)(A) should

---

[8] Report p. A-9.

[9] Comparative pricing data between representative French and U.S. producers for 1981 are not available.

[1] The "record" is defined in § 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] Commissioners Eckes, Frank, and Haggart determine that an industry in the United States would be threatened with material injury by reason of imports of sugar from the European Communities covered by countervailing duty order T.D. 78-253, if the order were to be revoked. Chairman Alberger, Vice Chairman Calhoun, and Commissioner Stern find that an industry in the Unite States would not be materially injured, or threatened with material injury, nor would the establishment of an industry in the United States be materially retarded, by reason of imports of sugar from the European Communities covered by countervailing duty order 78-253, if the order were to be revoked. Section 771(11) of the Tariff Act of 1930, as amended, provides, in part, that if the Commissioners voting on section 104 investigations "are evenly divided as to whether the determination of the Commission shall be affirmative or negative, the Commission shall be deemed to have made an affirmative determination."

[3] T.D. 78-253.

[4] 43 FR 33237.

[5] Report A-3.

include growers, processors, and refiners.[6]

Present Condition of the U.S. Industry

The condition of the U.S. industry has shown some improvement since the imposition of countervailing duties on EC sugar imports. U.S. sugar production, which fell in 1977 and 1978, has risen irregularly since 1979. Capacity utilization for both sugar cane refiners and sugar beet processors increased from 1979 to 1981.[7] During 1977 and 1978, U.S. producers held record inventories, but inventories then declined through 1981.

Since 1977, the U.S. government has attempted to stabilize sugar prices through a series of price support loan programs protected by: (1) duties and quotas, which the President is authorized to proclaim under Headnote 2 of subpart A, part 10 of schedule 1, of the TSUS; and (2) fees, which the President is authorized to impose under section 22 of the Agricultural Adjustment Act of 1933 (as amended). Title IX of the Agriculture and Food Act of 1981 established the most recent price support loan program for sugar.[8]

Recent Developments in International Sugar Trade

EC policy and the sugar surplus—The current world market for sugar is characterized by surpluses and depressed prices. World prices have declined since October 1980.[9] A major contribution to the world surplus is sugar from the European Community.[10]

The EC's Common Agricultural Policy (CAP) with respect to sugar is one which, through guaranteed prices, encourages production, thereby creating large sugar surpluses. These surpluses are exported with the benefit of subsidies.[11] The EC production control system for sugar designates three categories of internal sugar production: "A" quota, "B" quota, and "C" sugar. The "A" or basic quota for each country is supposedly set to meet internal EC consumption; but since "A" quotas are set by political negotiations, they usually have been fixed at levels greater than consumption. "A" and "B" quotas together constitute approximately 128.5 percent of annual EC sugar consumption.[12] To the extent that subsidized "A" and "B" sugar encourages cultivation of "C" sugar, it, too, is subsidized. While "A" and "B" sugar may either be sold domestically or exported, "C" sugar must be exported by the close of the calendar year or the producers run the risk of losing a portion of their subsidies.[13]

For the crop year 1981/82, the intervention price for "A" and "B" sugar was increased by 8.5 percent and for the 1982/83 crop, preliminary discussions indicated an additional 9 percent increase. The result of this policy has been a "mountain of sugar" which the EC has had to dispose of in recent years. This has led to the development of what has been referred to as the EC's common export policy for sugar. The excess of EC sugar production over EC sugar consumption was more than 3 million metric tons in each year since 1976/77 and nearly 5 million metric tons for 1981/82. These excesses coincide with a large world surplus of sugar which made disposal of the "sugar mountain" especially difficult.

Remedial Measures—To help stabilize international trade in sugar, avoid excessive price fluctuations, and guarantee adequate sugar supplies, the world's major exporters and importers of sugar negotiated the International Sugar Agreement (ISA) in 1977. The United States is a member of the ISA; but Congress must pass enabling legislation if United States membership is to continue beyond 1982. The EC is not a member and therefore is subject to a quota on exports to the United States applicable to nonmembers.

Under the current terms of the ISA, the United States is permitted to import 5,109 metric tons of sugar from nomember countries, which includes the EC. The council of the International Sugar Organization established by the Agreement is charged with monitoring imports and exports from member and nonmember countries and periodically adjusts quotas according to changes in world supplies and prices. The Council's quota restrictions for the United States in recent periods are shown in Appendix D of the Report.

In addition to this international effort, the United States also has imposed antidumping duties on imports of sugar from three EC member states. On May 16, 1979, the U.S. International Trade Commission reported to the Secretary of the Treasury its unanimous determination that an industry in the United States was being injured by reason of the importation of sugar from Belgium, France, and West Germany, which the Department of the Treasury had determined was being, or was likely to be, sold at less than fair value (LTFV). As a result of the Commission's determination, Treasury imposed dumping duties on any LTFV sugar imports from the countries in question, entered on or after February 12, 1979.

Finally, in response to plummeting sugar prices which threatened the U.S. sugar price support program, the President recently imposed a sugar import quota of 220,000 short tons for the period between May 11, 1982, and June 30, 1982.[14] France, together with 22 other countries and areas, was allocated a portion of this quota equal to 5.9 percent. The other EC countries received no quota. The total quota may be modified at any time.

Likely Effect of Removal of the Countervailing Duty Order

In a section 104 review investigation, the Commission is to assess the impact that revoking an existing countervailing duty order will have on the appropriate domestic industry. In explaining the reasons for including section 104, the Committee on Finance report notes:

> Under section 701 of the Tariff Act of 1930 * * * countervailing duties will be imposed on imports from certain countries only when the ITC determines that the material injury criterion of section 701 has been satisfied. Countervailing duty orders in effect on the effective date of new section 701 of the Tariff Act with respect to products from a country to which the material injury test of new section 701 will be applied were issued without the necessity of demonstrating injury. Section 104 of the bill provides for a review of these orders for the purpose of making an injury determination * * *.[15]

Therefore, Congress intended the ITC to evaluate the effect of subsidized imports and to make a material injury determination of the future impact of these imports if the order were revoked. Having done so, we conclude that if the order were revoked, subsidized EC imports would present a "real and

---

[6] Commissioners Eckes and Frank refer to the discussion of the appropriate industry in the Majority Opinion in *Lamb Meat from New Zealand*, Inv. No. 701-TA-80, p. 6-10.

[7] Report A-25.

[8] Report A-5.

[9] Report A-35.

[10] Report A-17.

[11] The EC's subsidies on sugar exports are currently being challenged under the Subsidies Code as a result of a petition filed pursuant to section 301 of the Trade Act of 1974, as amended. In addition, Australia and Brazil, along with ten other countries, have filed a complaint under Article XXIII of the General Agreement on Tariffs and Trade (GATT) because of the EC's failures to respond to a previous panel determination that the EC's subsidies violate GATT Article XVI(1).

[12] Report A-2.

[13] A detailed discussion of the EC's CAP with respect to sugar is found in the Report, pp. A-2-3, A-14-18, and A-34-36.

[14] The President took this action pursuant to Headnote 2 of the Subpart A of Part 10 of schedule 1 of the Tariff Schedules of the United States. Pursuant to Section 22 of the Agricultural Adjustment Act of 1933, the President simultaneously modified the fee system implemented by Proclamation 4887 of Dec. 23, 1981, so as to make it compatible with the quotas.

[15] S. Rept. No. 96-249, p. 198.

imminent" threat of material injury to the domestic industry.

As discussed above, both the condition of the domestic industry and the world sugar market reflect the unpredictable and volatile nature of trade in sugar and the effects of various remedial measures. In contrast, the program of subsidization by the EC, encouraging a sugar surplus for exportation, is ongoing and certain. There is nothing in the record of this investigation which suggests that the EC will deviate from this policy in the future.[16]

Without the protection of the countervailing duty order, the domestic industry would be threatened with material injury in light of EC subsidization and aggressive sugar production. Presently, the EC will have over 5 million short tons of sugar available for export from the 1981–82 crop.[17] This amount alone almost equals total U.S. imports for 1981. After the Soviet Union, the United States is the largest importer of sugar in the world [18] and most assuredly would be a market targeted by the EC for sale of its surplus in the absence of a countervailing duty order.

Importantly, the legislative history regarding the definition of the term "material injury" indicates that Congress anticipated special problems in determining whether an industry producing an agricultural commodity is materially injured.[19] Section 771(7)(D) indicates that the Commission shall consider in the case of agricultural products "any increased burden on government income or price support programs." The demonstrated instability and volatility which characterizes the domestic sugar commodity market point to the certain adverse impact of even small amounts of subsidized imported sugar on the U.S. price support program for sugar as well as on domestic producers.[20]

Although there are other factors which would affect future levels of subsidized sugar imports from the EC, reliance on these factors to restrain such imports cannot be justified in this case. One of these factors is the outstanding antidumping order; but, the existence of this order does not provide sufficient assurance regarding future levels of imports. Most importantly, the antidumping order fails to cover seven of the ten EC member states. Those countries not covered by the antidumping order historically have demonstrated the capacity to produce significant amounts of sugar for export.[21]

The countervailing duty order and the antidumping order address separate and distinct unfair trade practices. It is apparent from the statutory provisions concerning each practice that Congress intended separate consideration. The fact that the statutory scheme provides for an offset for countervailing duties in assessing antidumping duties further indicates that Congress envisioned situations where both types of duties would be required.[22]

The statement from the EC reproduced in Appendix C of the report (referenced above) points to a second factor affecting future levels of subsidized imports from the EC—the ISA nonmember quota. Reliance on this quota as determinative of future import levels is unsound, however. The quota is subject to modification at any time, and has been altered significantly in the past in response to changes in the world sugar market. Indeed, as recently as March 1980, quotas for nonmembers, including the EC, were suspended completely. Subsequently, the quota was reinstated and adjusted.[23] Further, even though legislation has been introduced to extend U.S. membership in the ISA, future membership beyond 1982 remains uncertain. If the United States were not a member, EC sugar imports would no longer be subject to the nonmember quota.

A final factor is the recent quota system imposed by the President. Quotas under the ISA and the Headnote authority are formulated in response to policy and economic considerations which are subject to the dynamics of the world sugar market. The intent of the Subsidies Code and the enabling legislation was to ensure that domestic producers would have an objective assessment of the impact of unfair imports, free from the considerations which underlie such agreements as the ISA or Presidential actions under the Headnote authority. This process is intended to afford all parties with predictability in that assessment. Reliance on quotas of uncertain amount and duration to counter the threat of injury from subsidized sugar imports is misplaced. To do so is to afford the domestic industry and exporting countries alike with an unpredictable decision-making process which is less than Congress clearly intended. Further, to do so subjects future trade relationships in this commodity to precisely the uncertainty and policy considerations which our trade laws are intended to eliminate. Therefore, the uncertainty of these quotas and the limited scope of the antidumping order preclude us from relying on them in assessing the impact revocation of the countervailing duty order would have on the domestic industry.

Conclusion

Our determination is based primarily on our assessment that the EC will continue to subsidize exports and that the resulting enormous surplus would have serious effects in already unsettled U.S. and international sugar markets. We find that a revocation of the countervailing duty order will threaten material injury to the U.S. sugar industry.

Views of Chairman Alberger, Vice Chairman Calhoun, and Commissioner Stern

Imports of sugar from the European Community (EC) have been subject to a countervailing duty order since July 31, 1978.[24] That order is before us for review pursuant to section 104(b) of the Trade Agreements Act of 1979. Based on the record developed in this investigation, we conclude that the revocation of this countervailing duty (CVD) order would not result in material injury or the threat of material injury to, or in the material retardation of , an industry in the United States.

In arriving at this decision, we have considered such market factors as the existence of antidumping duties on imports from France, Belgium, and West Germany, the existence of import fees and duties pursuant to Presidential Proclamation 4940, the existence of sugar quotas imposed pursuant to the International Sugar Agreement (ISA) and pursuant to Presidential Proclamation 4941, as well as the usual factors bearing on the performance of the domestic industry. The combined effect of the antidumping duties, import

[16] The EC requested this review investigation, but did not participate in the hearing. Recent changes in the Community's sugar program were outlined in a letter to the Commission. (See Appendix C to the Report.) The Department of Commerce is charged with the responsibility of determining the impact of these changes on its determination of subsidy practices by the EC.

[17] According to the submission made by the Department of Agriculture, the EC's share of the free world market has increased from 3.4 percent in 1975 to over 18 percent in 1981.

[18] Report A–21.

[19] S. Rept. No. 96–249, p. 88.

[20] Report p. A–33.

[21] Report p. A–23 & 24; tables 7–10.

[22] Tariff Act of 1930, as amended, section 772(d)(1)(D).

[23] *See* "Outline of Quotas, Duties, and Fees on Sugar," in Appendix D of the Report. Since Jan. 1, 1980, the quota for nonmembers has been 93,616 short tons, suspended for over a year, reinstated at 74,384 short tons, adjusted to 5,987 metric tons, and further adjusted to the current level of 5,109 metric tons.

[24] T.D. 78–253, 43 FR 33237.

duties and fees, and quotas insures that the U.S. industry will not be adversely affected by low-priced EC sugar if the CVD order is revoked.

The Domestic Industry [25]

Our initial consideration is the definition of the relevant domestic industry against which the impact of the subject imports must be assessed. Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as—

> The domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

The term "like produet" is, in turn, defined in section 771(10) as meaning—

> A product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

The scope of the outstanding CVD order under consideration covers generally all sugar from the EC whether derived from sugar beet or sugar cane. The refined sugar product derived from sugar beets in not distinguishable from that of sugar cane and they are interchangeable in the market place.[26] We conclude therefore that the domestic product which is like the imported sugar is sugar derived from either beets or cane.

There is a significant level of integration in domestic sugar production. With beet sugar, most growers sell to processors who convert the beets to refined sugar. In the case of cane sugar, many growers (especially in Hawaii) also process the sugar cane into raw sugar before it is sold to refinery companies who produce the end product, refined sugar. Other sugar cane growers sell to companies who process the cane into raw sugar and who in turn sell it to refiners. Thus the structure of the system for producing sugar is highly interdependent. Naturally, then, any impact of imports on the processors and refiners would be directly felt by the growers, a situation which is not unusual in the agricultural sector. Because of this degree of interdependence and integration among growers, processors and refiners, we have determined that the producers of the like product are the growers of sugar cane and sugar beets and those who process and refine them. Consequently the "industry" for purposes of section 771(4)(A) should include growers and processors and refiners.[27]

Present Condition of the U.S. Industry

The U.S. industry has been healthy during the most recent period. Today antidumping duties and quotas and import duties and fees, as well as countervailing duties, apply to imports of sugar from the European Community (EC).

U.S. sugar production, which fell in crop year 1979/80 to 5.77 million short tons, has increased each year since, reaching 6.51 million short tons in 1981/82.[28] Capacity utilization for both cane sugar refiners and beet sugar processors increased from 1979 to 1981.[29] Record levels of inventories were held by U.S. producers through early 1979, but have been declining ever since. From 1978 to 1981, the U.S. sugar processing industry became increasingly profitable. In particular, for the beet sugar processing industry, the net operating margin increased from a negative 2.0 percent in 1978, to 14.4 percent in 1981. Similarly, the net operating margin of cane sugar refiners increased from 3.1 percent in 1978 to 5.3 percent in 1981. For those processors that are cooperatives similar trends are evident for their operations.[30] In sum, since 1978 the performance of both U.S. sugar-beet processors and sugar cane refiners has been improving.

Likely Effect of Removal of the Countervailing Duty Order

In a section 104 review investigation, the task before the Commission is to assess the impact the revocation of an existing countervailing duty order will have on the domestic industry.

U.S. imports of sugar from the EC increased steadily from 42 short tons, raw value, in 1974 to 83,426 short tons, raw value, in 1978. Following the imposition of anti-dumping duties on sugar from France, Belgium and the Federal Republic of Germany, countervailing duties on EC sugar and the imposition of quotas on EC sugar pursuant to the International Sugar Agreement (ISA) imports from the EC fell sharply in 1979 to 2.1 short tons, rose to 71 short tons in 1980 and fell again to 46 short tons in 1981. Since 1974 such imports have never accounted for more than 1 percent of domestic consumption.

U.S. sugar producers have acknowledged that imports from the EC are a minor direct factor in the U.S. market. However, these producers maintain that in assessing material injury it is appropriate for the Commission to examine the impact of EC sugar exports to the world market on the world price which is in turn reflected in the U.S. price.[31] Even accepting, arguendo, that EC world exports impact adversely on U.S. market prices, we do not think this argument is relevant to the case before the Commission. In a section 104 review, the Commission's task is to determine the impact of imports on U.S. producers if the countervailing duty order is revoked. Thus, the effect on U.S. producers of EC exports to the world market rather than to just the U.S. market is irrelevant to our determination under section 104. Moreover if the impact of EC sugar is through its worldwide marketing we fail to understand how a countervailing duty order affecting exports to the United States would have remedial effect. Revocation of the order would not affect EC exports to the world market nor their impact on world prices. There is a mechanism in place—the import fee system—which is specifically designed to insulate the U.S. market from the impact of low world prices. Thus, to the extent the direct impact of EC subsidized exports is on world prices and only indirectly on U.S. prices, we do not think an affirmative determination in this case could be defended within the criteria of the statute.

Further, the decline in imports from the EC over the past 3 years coincides with two events: (1) The imposition of the antidumping duties on exports of sugar from France, Belgium and the Federal Republic of Germany on February 12, 1979; (2) the U.S. adoption of the ISA quota regime on January 1, 1978, which severely limits possible imports of EC sugar. Under the ISA quota regime total nonmember exports to the U.S.—including those from the EC—cannot currently exceed 5,109 metric tons a year. Compared to total imports of 5,013,704 short tons raw value

---

[25] It is the view of Vice Chairman Calhoun that, since this case arises under section 104 of the Trade Agreements Act of 1979, the task before the Commission is to determine whether a domestic industry would be materially injured or threatened with material injury "by reason of imports of the merchandise subject to a countervailing duty order if the order were to be revoked." Similarly, under Title VII of the Tariff Act of 1930, the Commission determines whether a domestic industry is materially injured or threatened with material injury by reason of the imported merchandise under investigation. Since no standards or guidance is given for section 104 determinations, he has in prior cases used the standards and analytical methodology employed in our Title VII cases for guidance in determining what would happen if duties were to be revoked. In this case, the standards and methodology of Title VII are particularly useful as there have been no duties imposed in the past year, making data from that period especially helpful in predicting what would occur without the duty. Thus, when Title VII language and theories arise in this opinion it is, for his purposes, based on the above rationale.

[26] Report A-3.

[27] Report A-8-11.

[28] Report A-28.

[29] Report A-25.

[30] Report A-30-A-33.

[31] Hearing transcript p. 8.

in 1981, this is a minimal amount which, even if sold at well below the prevailing market price, would not materially affect the U.S. industry.[32]

Today the U.S. sugar industry is further protected by quotas imposed by Presidential Proclamation 4941. As of May 11, 1982, only France of the the FC member states may export sugar to the United States, and its quota allocation is very small; it must share 5.9 percent of the total global quota with 22 other countries. From May 11, 1982, to June 30, 1982, the total quota is a mere 220,000 short tons, raw value, compared to an annual U.S. consumption of approximately 10 million short tons.

The combined effect of quotas and the antidumping duties afford adequate protection to the domestic industry. Virtually all imports of sugar from the EC orginate in the three countries to which the antidumping duties apply. As to these exports, the countervailing duty order provides no additional protection. The effect of Section 772(d)(1)(D) of the Tariff Act of 1930, as amended, is that the net duty collected is equal to the larger of the antidumping or countervailing duty. In this case the antidumping duty is the larger of the two. Moreover, given the EC's domestic price support program, it is unlikely that they would manipulate their domestic price in order to avoid antidumping duties.[33] Thus, the antidumping duties ensure that revocation of the countervailing duty order will not result in a substantial decrease in the price of sugar from the EC.

It is true that quotas under both the ISA and the Presidential Proclamation are subject to modification. However, it is specifically provided that quotas proclaimed pursuant to the Presidential Proclamation will be in accordance with the ISA. Modification of the ISA quotas are a function of the prevailing world price, quotas falling only as the price rises, thereby ensuring continued protection of the domestic industry. As to the possibility that the EC may join the ISA and thereby no longer be subject to the non-member quota, we note the letter from the EC to the Commission dated April 22, 1982, stating that "* * * the EC will not be able to join the present ISA as extended for two years (till end of 1984)." On the question of whether the United States will cease to be an ISA member and the quota thereby removed, we note that United States enabling legislation does not expire until 1983, and that there is no indication that the legislation will not be renewed. Similarly, there is no reason to believe that any future modification of the antidumping duty will permit prices or quantities of FC imports which would adversely affect the U.S. industry. In any case, the role of the Commission in a section 104 investigation is to forecast the effect of revocation of the countervailing duty order on the domestic industry. In so doing, we must consider factors which affect the condition of the industry as they exist at the time of the determination. Mere conjecture as to future events is not appropriate even for a threat of material injury argument. It is not our role to engage in pure speculation as to what future market conditions might be. The Senate Committee on Finance in its report on the Trade Agreements Act of 1979 affirms that even a threat of material injury must not be based on mere supposition or conjecture.[34]

Having considered the current healthy state of the U.S. sugar industry and the existence of other forms of protection against EC sugar imports, we determine that revocation of the countervailing duty order will not result in material injury or threat of material injury to the U.S. sugar industry.

By order of the Commission.

Issued: May 14, 1982.

Kenneth R. Mason,

Secretary.

[FR Doc. 82-14363 Filed 5-25-82; 8:45 am]

BILLING CODE 7020-02-M

[32] In a previous ITC report on sugar, Investigation 22-41, April 1978, the price elasticity of demand was found to be inelastic. Nevertheless, a small increase in the quantity of sugar available to the market, such as 5,000 tons, would be unlikely to have a significant effect on a daily price quote, and would have negligible lasting effect on the price over any period of time. Staff briefing of Commission at meeting, May 6, 1982.

[33] Staff briefing of Commission at meeting, May 6, 1982.

[34] "In determining whether an industry in the United States is threatened with material injury, the ITC will consider the likelihood of actual material injury occurring. It will consider any economic factors it deems relevant, and consider the existing and potential situation with respect to such factors. An ITC affirmative determination with respect to threat of material injury must be based upon information showing that the threat is real and injury is imminent, not a mere supposition or conjecture. The 'threat of material injury' standard is intended to permit import relief under the countervailing duty and antidumping laws before actual injury occurs and should be administered in a manner so as to prevent actual injury from occurring. Relief should not be delayed if sufficient evidence exists for concluding that the threat of injury is real and injury is imminent." S. Rept. No. 96-249 at 88-89.

LIBRARY OF CONGRESS

Copyright Office

[Docket No. LPR 80-6]

Report of the Register of Copyrights on the Effects of 17 U.S.C. 108 on the Rights of Creators and the Needs of Users of Works Reproduced by Certain Libraries and Archives; Final Comment Period

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of final comment period.

SUMMARY: The Copyright Office of the Library of Congress is preparing a report for Congress in accordance with 17 U.S.C. 108(i). The subject of the report to the extent to which 17 U.S.C. 108 has achieved the intended balance between the rights of creators and the needs of users of copyrighted works which are reproduced by certain libraries and archives. Five regional public hearings have been held to elicit views, comments, and information from all interested persons, including authors, copyright proprietors, libraries, and users of all types of libraries. This notice announces that the Copyright Office desires to receive the written comments of organizations and individuals whose informed opinions may contribute to the preparation of that report.

The Office also announces the availability of, and invites written comment on, the report of library photocopying prepared by King Research, Inc. under contract to the Library of Congress.

DATE: To become part of the record, and to be fully evaluated in preparing the report, all comments must be received by the Copyright Office on or before July 15, 1982.

ADDRESSES: Written comments should be submitted as follows:

If sent by mail: Office of the General Counsel, Department D.S., Library of Congress, Washington, D.C. 20540.

If hand-delivered: Office of the General Counsel, Madison Building, Room 407, First and Independence Avenue SE., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Department D.S., Library of Congress, Washington, D.C. 20540, Telephone: (202) 287-8380.

SUPPLEMENTARY INFORMATION:

1. Background and Purpose of the Copyright Office Report

A thorough background statement concerning the Copyright Office report,

section 108 of the Copyright Act appears in all prior notices requesting comments, most recently at pages 79202 through 79204 of the **Federal Register** for Friday, November 28, 1980 (Vol. 45, No. 231) and is herein incorporated by reference.

2. Specific Questions

The Copyright Office is interested in receiving comments and testimony about any issues relevant to section 108 which concern authors, copyright owners, librarians, and their patrons. Of particular interest are answers to the following questions:

1. To what extent has section 108 changed library procedures? Has there been any significant effect on users' and librarians' access to information?

2. To what extent has section 108 affected established patterns in the publishing industry and the relationship between authors, libraries, and library users?

3. Depending upon the type of library involved, describe the effect, if any, of section 108 upon the type and amount of copying performed by the library on its own behalf or on behalf of users. To what extent have publishers and authors experienced a change in the number of requests from libraries to reproduce works since the present law went into effect?

4. In what manner has the establishment of the Copyright Clearance Center affected your experience under section 108? Would the creation of a National Periodical Center affect your operations? (The intent of these questions is to elicit responses from publishers and authors on the one hand and libraries and library users on the other.)

5. Describe the impact, if any, that section 108 has had upon the replication of nonprint materials, including the ability of libraries to reproduce phonorecords and audiovisual works dealing with news. In response to this question describe any problems which have been encountered as the result of the narrower exemptions for nonprint materials under section 108.

6. How have the CONTU guidelines worked in practice? How should periodicals more than five years old be treated?

7. What is your opinion of the relationship between section 107 ("fair use") and section 108 ("reproduction by libraries and archives")?

8. How should foreign copyrighted works and requests from foreign libraries be treated under section 108 and, in practice, how are they treated now?

9. If problems do exist, can they be resolved without resort to legislative amendment? If so, what are the problems, and how could they best be resolved? If not, what changes should be made in the law?

3. King Report

The Library of Congress awarded a contract to King Research, Inc., to perform several statistical surveys concerning library photocopying, to assist the Copyright Office in preparing the report to Congress mandated by, 17 U.S.C. 108(i). Results of three surveys of libraries, two of library patrons, and one of publishers are contained in a report by King Research which will be available in late May or early June, 1982 for purposes of written public comment to the Copyright Office. Copies may be ordered in advance directly from King Research by sending a check or money order (payable to King Research, Inc.) in the amount $25.00 ($30.00 for delivery outside the United States) to King Research, Inc., P.O. Box 70, Rockville, MD 20850. Only prepaid orders can be accepted. Domestic deliveries will be by first class mail; deliveries outside the United States will be by airmail.

In addition, a limited number of copies will be available at the Copyright Office for reading or lending in the Washington, D.C. area. Subject to availability, a copy can be borrowed for partial or complete reproduction outside the Copyright Office; the borrowed copy must be returned within 24 hours to the Copyright Office. These copies will be in the Information Office, Room, 401, Madison Building, 1st and Independence Avenues, SE., Washington, D.C., and will be available weekdays (except holidays) between 8:30 a.m. and 5:00 p.m.

(17 U.S.C. 108)

Dated: May 18, 1982.

Michael R. Pew,

Associate Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 82-14286 Filed 5-25-82; 8:45 am]

BILLING CODE 1410-03-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Midland Plant Units 1 and 2; Meeting

The ACRS Subcommittee on Midland Plant Units 1 and 2 will hold a meeting on June 2, 1982, Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee will continue to review the application by Consumers Power Company for a license to operate Midland Plant Units 1 and 2.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Wednesday, June 2, 1982—4:00 p.m. until the conclusion of business, discussion of topic noted above.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Consumers Power Company, the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. David Fischer (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with Subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: May 21, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-14332 Filed 5-25-82; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses to Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or a petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for license to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 19th day of May at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director, Export/Import and International Safeguards Office of International Programs.

FEDERAL REGISTER (EXPORT)

Name of applicant, date of application, date received, application No.	Material type	Material in Kilograms		End-use	Country of destination
		Total element	Total isotope		
General Electric, Apr. 30, 1982, May 4, 1982, XSNM01958	3.65 percent enriched uranium	50,329	1,358	Reload fuel for Tokai-2	Japan.
General Electric, Apr. 30, 1982, May 4, 1982, XSNM01957	3.85 percent enriched uranium	10,296	280	Reload fuel for Tsuruga	Japan.

[FR Doc. 82-14326 Filed 5-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-313]

Arkansas Power & Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Company (the licensee), which revised the Technical Specifications (TSs) for operation of Arkansas Nuclear One, Unit No. 1 (the facility), located in Pope County, Arkansas. The amendment is effective as of the date of issuance.

The amendment revised the Appendix B TSs to delete certain nonradiological water quality surveillance requirements of sections 2.1 and 4.1.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment is a ministerial action required as a matter of law and that therefore no environmental impact statement or negative declaration and environmental impact appraisal need be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the licensee's applications for amendment dated August 17 and September 24, 1981, (2) Amendment No. 65 to License No. DPR-51, and (3) the Commission's letter to the licensee dated May 18, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas Tech University, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of May 1982.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-14327 Filed 5-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 70-1100]

Negative Declaration Regarding Renewal of License No. SNM-1067, Combustion Engineering, Inc., Nuclear Fuel Fabrication Plant, Windsor, Connecticut

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License SNM-1067 for the continued operation of the Nuclear Fuel Fabrication Plant at Windsor, Connecticut.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed renewal of license SNM-1067. On the basis of this appraisal, the Commission has concluded that the environmental impact created by the proposed license renewal action would not be significant and does not warrant the preparation of an environmental impact statement and, accordingly, it has been determined that a Negative Declaration is appropriate. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Fuel Cycle and Material Safety.

Dated at Silver Spring, Maryland, this 19th day of May, 1982.

For the Nuclear Regulatory Commission.

R. G. Page,

Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 82-14329 Filed 5-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-373 and 50-374]

Commonwealth Edison Co.; (La Salle County Nuclear Generating Station, Units 1 & 2) Request for Action

Notice is hereby given that by its Request to Institute a Show Cause Proceeding dated April 28, 1982 (Petition), Bridget Little Rorem and the Illinois Friends of the Earth requested that certain actions be taken by the Nuclear Regulatory Commission with respect to the La Salle County Station, Units 1 and 2 of the Commonwealth Edison Company in light of certain alleged safety issues. The Petition and accompanying affidavits allege that certain improper construction practices have resulted in structural problems at the facility which could cause serious health and safety problems. The relief requested included institution of a show cause proceedig pursuant to 10 CFR 2.202 and an immediate halt to the further loading of nuclear fuel at La Salle Unit 1. This request is being treated as a petition pursuant to 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the Petition within a reasonable time.

Copies of the Petition are available for inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555, and in the local public document room for the La Salle County Station, units 1 and 2, located at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Dated at Bethesda, Maryland this 19th day of May 1982.

For The Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-14328 Filed 5-25-82; 8:45 am]

BILLING CODE 7590-01-M

Subcommittees on Electrical Systems and Qualification Programs for Safety-Related Equipment, Advisory Committee on Reactor Safeguards; Cancellation

The ACRS Combined Subcommittees on Electrical Systems and Qualification Programs for Safety-Related Equipment scheduled for May 27, 1982 in Room 1046, 1717 H Street, NW, Washington, DC has been cancelled. This meeting has been tentatively scheduled for June 22, 1982.

Dated: May 21, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-14334 Filed 5-25-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric & Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. NPF-7 issued to the Virginia Electric and Power Company (the licensee) for operation of the North Anna Power Station, Unit No. 2 (the facility) located in Louisa County, Virginia. The amendment is effective as of its date of issuance.

The amendment revises the NA-2 Technical Specifications by upgrading and adding twenty (20) containment isolation valves of Table 3.6.1 to meet the requirements of NUREG-0737, Action Item II.B.2, Post-Accident Shielding; and Action Item II.B.3, Post Accident Sampling.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since this amendment does not involve significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 23, 1982; (2) Amendment No. 25 to Facility Operating License No. NPF-7; and (3) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland the 17th day of May, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-14330 Filed 5-25-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF STATE

[Public Notice 807]

International Bridge Permit Application for Private Road Bridge in the Vicinity of St. Croix, New Brunswick and Vanceboro, Maine

Notice is hereby given that the Department of State has received an application for a permit authorizing the Georgia-Pacific Corporation to construct a private road bridge across the St. Croix River approximately one and one-half miles south of St. Croix, New Brunswick and Vanceboro, Maine. The bridge and the private haul road with which it is to be connected are being built in response to requests by local communities that steps be taken to minimize use of public roads by trucks carrying forest products between company facilities in Woodland, Maine and McAdam, New Brunswick. The private road will also reduce energy consumption by allowing heavy and oversized loads to be transported. The road system will be built on land owned by the St. Croix Pulpwood Company, which is a wholly owned subsidiary of the Georgia-Pacific Corporation, and will be restricted to use by vehicles transporting forest products.

The Department's jurisdiction with respect to this application is based upon Executive Order 11423, dated April 16, 1968 (the Order), and the International Bridge Act of 1972 (33 U.S.C. sec. 535), approved September 26, 1972. As required by the Order, the Department is circulating this application to concerned agencies for comment.

In cooperation with the Department of State and the U.S. Army, Corps of Engineers, the U.S. Coast Guard (First Coast Guard District) has prepared an Environmental Assessment (EA) for the proposed project. The Department of State concurs with the findings of the

EA that the proposed project will have no significant environmental impact.

Interested persons may submit their views regarding this application in writing by May 24, 1982 to Mr. Geoffrey M. Levitt, Attorney Adviser, Office of the Assistant Legal Adviser for European Affairs, Room 5417A, Department of State, 2201 C Street, NW., Washington, D.C. 20520.

The application and related documents which are made part of the record to be considered by the Department of State in connection with this application are available for inspection and copying in the Office of the Assistant Legal Adviser for European Affairs during normal business hours. Any questions relating to this notice may be addressed to Mr. Levitt at the above address (Phone 202–632–1216).

Dated: May 6, 1982.

Ted A. Borek,

Assistant Legal Adviser for European Affairs.

[FR Doc. 82-14346 Filed 5-25-82; 8:45 am]

BILLING CODE 4710-08-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Investment Policy Advisory Committee; Meeting and Determination of Closing of Meeting

The meeting of the Investment Policy Advisory Committee (the Advisory Committee) to be held Wednesday, June 2, 1982, from 2:30 p.m. to 5:00 p.m. at the Office of the United States Trade Representative, will involve a review and discussion of current issues involving the investment and trade policies of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under Section 135(g) (1) (A) of the Trade Act of 1974, as amended, (the Act), information submitted by government officials under Section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives, information the disclosure of which would be likely to significantly frustrate implementation of proposed government action, and information properly classified pursuant to Executive Order 12065 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under Section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in Section 552b(c) of Title 5 of the United States Code. Therefore, the meeting of the Investment Policy Advisory Committee will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,

United States Trade Representative.

[FR Doc. 82-14315 Filed 5-25-82; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Proposed Correction of a Customs Finding Relating to the Tariff Classification of Certain Imported Printing Mechanisms

AGENCY: Customs Service, Treasury.

ACTION: Proposed notice of correction.

SUMMARY: This document gives notice that the Customs Service believes that a previous Customs finding of an established and uniform practice of classifying certain printing mechanisms under the provision for office machines, not specially provided for, in item 676.30, Tariff Schedules of the United States (TSUS), was made in error, and that a practice did not, in fact, exist at that time of the finding. Accordingly, it is Customs opinion that the subject printing mechanisms are properly classifiable under the provision for other parts of office machines, not specially provided for, in item 676.52, TSUS, at the higher rate. However, before making the change in classification, public comments are being invited.

DATE: Comments (preferably in triplicate) must be received on or before: July 26, 1982.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: James Hill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

In a ruling letter addressed to counsel for the importer of certain printing mechanisms, dated April 26, 1976, (File No. 040922), Customs expressed the opinion that mechanisms to be placed in the same housings with cash registers, calculators, or other data source collectors such as printers, were classifiable under the provision for other parts of office machines, not specially provided for, in item 676.52, Tariff Schedules of the United Stastes (TSUS) (19 U.S.C. 1202). Subsequently, counsel for the importer submitted summaries of his client's importing experience purporting to show that there was an established and uniform Customs practice of classifying certain models of the printing mechanisms under the provision for office machines, not specially provided for, in item 676.30, TSUS. The column 1 rate of duty for merchandise entered under item 676.30, TSUS, has been, and presently is, less than the column 1 rate of duty for merchandise entered under item 676.52, TSUS. Customs reviewed the information submitted on behalf of the importer and issued a finding on August 18, 1976, (File No. 040922) that there was an established and uniform tariff classification practice with respect to 12 specific models of the printing mechanisms, and therefore, authorized pending entries of these articles to be liquidated at the lower rate of duty under item 676.30, TSUS.

A later review of this matter showed that the import record concerning these articles was not complete, that some of these and other similar printing mechanisms had been entered at the higher rate of duty under item 676.52, TSUS, at several ports of entry, and that the liquidation of entries for this merchandise had been suspended at the time of customs August 18, 1976, finding, pending clarification of the appropriate tariff classification of the printing mechanisms.

Inasmuch as a finding by Customs that an established and uniform tariff classification practice exists implies that Customs has consistently and uniformly classified the merchandise in question, Customs believes that the August 18, 1976, finding clearly was made in error based on insufficient factual information regarding importations of the mechanisms.

Proposed Correction

In view of the above, Customs believes that the established and uniform practice held to exist for the 12 models of printing mechanisms, which

were the subject of Customs Headquarters letter of August 18, 1976, described above, was made in error, and that an established and uniform practice classifying the 12 models under item 676.30, TSUS never existed. Accordingly, it is Customs opinion that the printing mechanisms described above are properly classifiable under item 676.52, TSUS, at the applicable rate of duty.

Authority

Customs is giving this notice and opportunity for comment on the proposed correction in accordance with section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d), and § 177.10(c), Customs Regulations (19 CFR 177.10(c)).

COMMENTS

Before taking any further action on this matter, consideration will be given to any witten comments, preferably in triplicate, timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00a.m. to 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Drafting Information

The principal author of this document was Robert Joseph Pisani, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: May 21, 1982.

William von Raab,

Commissioner of Customs.

[FR Doc. 82-14348 Filed 5-25-82; 8:45 am]

BILLING CODE 4820-02-M

Office of the Secretary

[Supp. to Dept. Circ., Public Debt Series No. 13-82]

Series S-1984; Interest Rate

May 20, 1982.

The Secretary announced on May 19, 1982, that the interest rate on the notes designated Series S-1984, described in Department Circular—Public Debt Series—No. 13-82 dated May 13, 1982, will be 13¾ percent. Interest on the notes will be payable at the rate of 13¾ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 82-14310 Filed 5-25-82; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Wisconsin Veterans Home, King, Wis.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed construction of a nursing care facility at the Wisconsin Veterans Home in King, Wisconsin. The estimated project cost is approximately $8.5 million. This is a magnitude estimate and is subject to revisions.

This project involves the construction of a new facility that will accommodate a 116-bed nursing home care unit and a medical clinic to service residents at the King, Wisconsin Veterans Home. Included is the construction of three tunnels to connect existing buildings with the nursing home unit and medical clinic. Building No. 501, which currently houses 71 nursing care beds, will be vacated after construction of the new nursing care unit. The beds within Building No. 501 will be transferred to the new structure.

Project impacts will involve construction activities affecting the immediate veteran home environment; however, a beneficial impact will be achieved through the addition of 45 new beds which will provide more employment and income to the local area surrounding the home.

Construction related traffic may cause disruption of on-site traffic flow. In addition, construction noise associated with the development of the new nursing home facility is likely to cause annoyance to occupants of adjacent residences. Complaints about noise usually give rise to a controversial situation. The impact of dust and fumes that will exist during construction will be of short effect lasting only during that phase of project development. In relation to both construction and operation, the new facility will be built in accordance with applicable Federal, State and local air quality standards.

The significance of the identified impacts has been evaluated relative to the considerations of both context and intensity, as defined by the Council on Environmental Quality (Title 40, CFR 1508.27).

This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, P.E., Director, Office of Environmental Affairs, Room A-14, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 389-2526. Questions or requests for single copies of the Environmental Assessment may also be directed to the above address.

Dated: May 18, 1982.

Robert P. Nimmo,

Administrator.

[FR Doc. 82-14264 Filed 5-25-82; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 102
Wednesday, May 26, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Federal Energy Regulatory Commission	1
Federal Home Loan Bank Board	2
Federal Reserve System	3
Legal Services Corporation	4
Postal Rate Commission	5

1

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 19507, May 5, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., May 17, 1982.

CHANGE IN THE MEETING: The following items has been added to the closed meeting of May 17, 1982:

Item No., Docket No., and Company

2—*Pennzoil Company v. Public Service Commission of West Virginia,* United States Supreme Court No. 81–1672
3—IN80–1, Ship Shoal Pipeline System

Kenneth F. Plumb,

Secretary.

[S–789–82 Filed 5–24–82; 10:41 am]

BILLING CODE 6717–02–M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 22449, May 24, 1982.

PLACE: Board Room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6679).

CHANGES IN THE MEETING: The Bank Board meeting previously scheduled for Thursday, May 27, 1982 has been cancelled.

[No. 38, May 24, 1982]

[S–790–82 Filed 5–24–82; 11:49 am]

BILLING CODE 6720–01–M

3

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 A.M., TUESDAY, JUNE 1, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: May 24, 1982.

James McAfee,

Associate Secretary of the Board.

[S–792–82 Filed 5–24–82; 3:22 pm]

BILLING CODE 6210–01–M

4

LEGAL SERVICES CORPORATION

TIME AND DATE: 9 a.m.–5 p.m., Thursday, June 3, 1982.

PLACE: Legal Services Corporation, 733 15th Street, N.W., Eighth Floor Conference Room 2, Washington, D.C.

STATUS OF MEETING: Open (Portion of the meeting will be closed to discuss a personnel matter under 45 CFR Section 1622.5(a) and 1622.5(e)).

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of May 6, 1982.
3. Second Quarter Budget Review.
4. Consideration of Issues Relating to FY 1983 Consolidated Operating Budget and FY 1984 Budget Request.
5. Discussion of Corporation's Financial Management with Corporation's Auditors.
6. Other Business.

CONTACT PERSON FOR MORE INFORMATION: LeaAnne Bernstein, Office of the President, (202) 272–4040.

Dated: May 24, 1982.

Gerald M. Caplan,

Acting President.

[S–791–82 Filed 5–24–82; 12:06 pm]

BILLING CODE 6820–35–M

5

POSTAL RATE COMMISSION

TIME AND DATE: 10 a.m., Tuesday, May 25, 1982.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket MC78–3 (E-COM) (Electronic mail case) (Closed pursuant to 5 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–788–82 Filed 5–21–82; 4:29 pm]

BILLING CODE 7715–01–M

federal register

Wednesday
May 26, 1982

Part II

Department of the Interior

Bureau of Land Management

Management Areas; Regulations to Implement the National Trails System Act of 1968

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8350

[Circular No. 2504]

Management Areas; Regulations to Implement the National Trails System Act of 1968

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking will implement the National Trails System Act of 1968, as amended, which prohibits the use of motorized vehicles on all national scenic trails except on certain roads designated as trails, and except to meet emergencies or to enable adjacent landowners and users to gain access to their land, interests and timber rights. In addition, this final rulemaking will enhance the opportunity for recreational experiences of users on the completed national scenic trail segments and limit conflict among users of these trails, and will establish criminal penalties for violation of the regulations.

EFFECTIVE DATE: June 25, 1982.

ADDRESS: Any suggestions or questions should be sent to: Director (340), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Delmar Price, (202) 343–9353.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published in the **Federal Register** on October 19, 1981 (46 FR 51258). Comments were invited for 60 days ending on December 18, 1981; the comment period was extended to January 18, 1982. Comments were received from 29 different sources: 8 from business interests, 6 from State governments, 9 from recreation and other associations, and 6 from individuals. Eleven of these sources, including 4 off-road vehicle interests, offered unqualified support of the proposed rulemaking. Opposition was expressed in 5 comments including 1 from an off-road vehicle interest and 4 from individuals who opposed allowing motorized vehicles on national scenic trails. One business source submitted a written "no comment". The remaining 12 comments offered specific criticisms, suggestions for amendment and amendatory language. These specific comments will be dealt with in the section-by-section discussion of the proposed regulations.

There were no comments on proposed new § 8351.1–1(a)(1), and the proposed section has been adopted in the final rulemaking.

Of those who made specific comments, 6 addressed proposed new § 8351.1–1(a)(2). Several pointed out that the words "directly across" in the proposed regulations are not in the statutory authority, and argued that the provision was too narrow an interpretation of "reasonable access," the term used in the statute, and might cause adverse economic or environmental impacts. The substance of those comments has been adopted. The words "directly across" have been removed from the rulemaking.

Several comments argued that in section 7 of the National Scenic Trails Act, as amended (16 U.S.C. 1246), Congress opened trails to motor vehicles of adjacent landowners to enable them to have "reasonable access" to their land or timber rights, rather than access if they have "reasonable need" for it. The word "reasonable" has been deleted as a requirement for the need for access. Further, several comments argued that the right of reasonable access should be extended to those with grazing allotments, mining claims and mineral leases on public lands adjacent to national scenic trails, although the National Scenic Trails Act refers only to the lands or timber rights of "adjacent landowners or land users." The proposed rulemaking has been amended to allow reasonable access to persons who have interests in land. The Bureau of Land Management has traditionally, and statutorily since passage of the Federal Land Policy and Management Act of 1976, recognized that lands include interests in lands.

One comment suggested that the word "adjacent" be replaced by the phrase "in proximity of." This suggestion has not been adopted because it is clearly beyond the scope of the statute.

A comment suggested adding another exception to the general prohibition against motor vehicles to allow motorized uses that do not substantially interfere with the nature and purposes of the trail, on the basis that the National Scenic Trails Act at 16 U.S.C. 1246(e) supports this position. The cited provision permits campgrounds, shelters, and related-public-use facilities, and other "uses along the trail, which will not substantially interfere with the nature and purposes of the trail." The Act then specifically prohibits motorized vehicle use, with certain named exceptions. The suggested language is not authorized by the Act and has not been added.

One comment suggested that national scenic trails be open to motorized vehicles for access purposes only when the trails have historically been used for such purposes. This recommendation has not been adopted in the final rulemaking because it would conflict with the requirements of the statute.

Five comments offered specific criticisms of or suggestions for § 8351.1–1(a)(3) of the proposed rulemaking. One comment pointed out that section 5(a)(5) of the National Scenic Trails Act, which designated the Continental Divide National Scenic Trail, only permitted the use of motorized vehicles on roads that are designated segments of the trail, and suggested that the proposed rulemaking be revised to conform to that provision. As a result of this comment, this section of the final rulemaking has been changed to conform to the law. Another comment suggested that future national scenic trails as designated by Congress may include segments of existing roads, and that the regulations should retain the flexibility to manage such road segments in the same way as roads that are part of the Continental Divide National Scenic Trail. This recommendation has been adopted in the final rulemaking. Because this rulemaking will only affect the management of scenic trails on public lands administered by the Bureau of Land Management, it will have no effect or road segments that may be included on portions of scenic trails managed by other agencies, such as the U.S. Forest Service, and will have no effect on national recreational or historic trails.

Several comments urged that the Bureau of Land Management adopt less stringent regulations and avoid total closure of all national scenic trails to motorized vehicle use, particularly snowmobiles. This suggestion has not been incorporated in the final rulemaking. However, because much of the route of the Continental Divide National Scenic Trail on public lands, at least in Wyoming, is across relatively open terrain, the portions of the trail not on a road will be covered by snow during the winter and probably be subject to incidental use by snowmobiles crossing open country. Actual motorized use of the trail as a snowmobile route will be prohibited.

There were no comments on the proposed new § 8351.1–1(b), and the proposed section has been adopted in the final rulemaking.

Editorial and grammatical changes, as needed, have been made.

The principal author of this final rulemaking is Larry R. Young, Branch of Recreation and Cultural Resources, assisted by the staff of the Office of Legislation and Regulatory

Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

As a result of the environmental assessment approved July 22, 1981, it has been determined that this rulemaking is not a major Federal action having a significant effect on the quality of the human environment and that no detailed statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C) is required.

List of Subjects in 43 CFR Part 8350

National trails system penalties, Public land.

Under the authority of section 7(i) of the National Scenic Trails Act (16 U.S.C. 1241 et seq.), subpart 8351, part 8350 of Subchapter H, Chapter II, title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: May 6, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 8350—MANAGEMENT AREAS

1. Subpart 8351 is amended by revising the title of § 8351.1 and by adding a new § 8351.1–1 to read as follows:

Subpart 8351—Designated National Area

* * * * *

§ 8351.1 National trails systems.

§ 8351.1–1 National scenic trails.

(a) *Motorized vehicle use.* No one shall operate a motorized vehicle along a national scenic trail except:

(1) When motorized vehicular use is necessary to meet emergencies involving health, safety, fire suppression, or law enforcement; or

(2) Where the authorized officer determines that adjacent landowners and land users have a need for reasonable access to their lands, interests in lands, or timber rights; or

(3) On roads that are designated segments of the National Scenic Trail System and are posted as open to motorized vehicles.

(b) *Penalties.* In accordance with section 7(i) of the National Trails System Act of 1968, as amended (16 U.S.C. 1246), anyone convicted of violating this regulation is subject to a fine not to exceed $500 and/or imprisonment not to exceed six months.

[FR Doc. 82–14291 Filed 5–25–82; 8:45 am]

BILLING CODE 4310–84–M

federal register

Wednesday
May 26, 1982

Part III

Department of Energy

Energy Information Administration

Changes to Department of Energy Reporting and Recordkeeping Requirements

DEPARTMENT OF ENERGY

Energy Information Administration

Changes to DOE Reporting and Recordkeeping Requirements

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of changes to the inventory of Department of Energy reporting and recordkeeping requirements.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy (DOE) hereby gives notice to respondents and other interested parties of changes to the inventory of current energy information collections as defined in the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

The listing that follows this notice indicates changes made during the quarter from January 1, 1982, to March 31, 1982, to the inventory of current DOE information collections published in the **Federal Register** (47 FR 12920 March 25, 1982). The listing includes corrections to the published inventory, new information collections approved by the Office of Management and Budget (OMB), collections reinstated, extended, discontinued or allowed to expire, and changes to continuing information collections. For each new requirement, requirement reinstated, requirement extended, and requirement discontinued, the current DOE control or form number, the title, and the OMB control number and approval expiration date are listed by DOE sponsoring office. If applicable, the appropriate Code of Federal Regulations citation is also listed.

FOR FURTHER INFORMATION CONTACT: Carolyn Sinclair, Energy Information Administration, Mail Stop 7413, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, (202) 633–9680.

Issued in Washington, D.C., May 20, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

CORRECTIONS TO LISTINGS IN MAR. 25, 1982, FEDERAL REGISTER NOTICE

DOE number as previously listed	Correction	New listing
CE–189C	Title should have been	Energy efficiency improvement and recovered materials utilization program—Corporate reporting form.
CE–189E	DOE number should have been	CE–189P.
	Title should have been	Energy efficiency improvement and recovered materials utilization program—Plant reporting form.
CE–189S	Title should have been	Energy efficiency improvement and recovered materials utilization program—Sponsor reporting form.
EIA–196E	DOE number should have been	EIA–196B.
EIA–701	OMB number should have been	19040023.
NE–491A and NE–491B	DOE numbers should have been	EIA–491A and EIA–491B.
FERC–80	OMB number should have been	19020106.

DOE No.	Title	OMB No.	Expiration date	CFR citation
	New DOE Information Collections Approved by OMB			
	ENERGY INFORMATION ADMINISTRATION			
EIA–717	Annual Survey of Uranium Exploration and Surface Drilling Costs and Anticipated Expenditures	19050131	04/30/84	NA.
EIA–764A	Petroleum Product Sales Indentification Survey	19050133	12/31/82	NA.
EIA–764B	Petroleum Product Sales Indentification Survey (EIA–172 Respondents)	19050133	12/31/82	NA.
	ENVIRONMENTAL PROTECTION, SAFETY AND EMERGENCY PREPAREDNESS			
EP–739	Weekly Crude Watch Report	19050132	02/28/85	NA.
	ENERGY RESEARCH			
ER–487A	Health Effects of Low-Dose Radiation Exposure Among Nuclear Shipyard Workers—Short Form	19010250	09/30/84	NA.
ER–487B	Health Effects of Low-Dose Radiation Exposure Among Nuclear Shipyard Workers—Radiation Long Form	19010250	09/30/84	NA.
ER–487C	Health Effects of Low-Dose Radiation Exposure Among Nuclear Shipyard Workers—Asbestos Long Form	19010250	09/30/84	NA.
	ECONOMIC REGULATORY ADMINISTRATION			
ERA–328R	Prohibition Orders Under FUA/OBRA	19030077	01/31/85	NA.
ERA–626R	Natural Gas Volumes Used to Displace Natural Gas	19030076	06/30/83	10 CFR 595.
	FEDERAL ENERGY REGULATORY COMMISSION			
FERC–566	Report of Utility's 20 Largest Purchasers	19020114	12/31/84	18 CFR 46.3.
FERC–568	Well Category Determinations	19020112	12/31/83	18 CFR 274.
FERC–569	Refund Obligations	19020111	12/31/84	18 CFR 273.
FERC–571	Incremental Pricing Report	19020110	12/31/84	18 CFR 282.
FERC–574	Gas Pipeline Certificate: Hinshaw Exemption	19020116	02/29/84	18 CFR 152, 284.222.
FERC–575	Louisiana First Use Tax	19020113	12/31/82	18 CFR 154.38 (H)(3), (H)(9).
	MANAGEMENT AND ADMINISTRATION			
MA–647R	Nondiscrimination in Federally Assisted Programs	19010247	01/31/85	10 CFR 1040.4, .102.
	POWER MARKETING ADMINISTRATION			
WAPA–743R	Application for Allocation of Power	19040037	11/30/84	46 FR 25,539.

DOE Information Collections Reinstated

CONSERVATION AND RENEWABLE ENERGY

DOE No.	Title	OMB No.	Expiration date	CFR citation
CE-80	Evaluation Activity Report	19040039	01/31/85	NA.

DOE Information Collections Extended

DEFENSE PROGRAMS

DP-354	Data Report on Spouse	19010002	03/31/85	NA.

ENERGY INFORMATION ADMINISTRATION

EIA-64	Natural Gas Liquids Operations Report	19050109	03/31/83	NA.

ENVIRONMENTAL PROTECTION, SAFETY, AND EMERGENCY PREPAREDNESS

ERA-51	Transfer Pricing Report	19030002	06/30/82	NA.

FEDERAL ENERGY REGULATORY COMMISSION

FERC-500	Major Hydroelectic License—Application	19020058	12/31/84	18 CFR 4, Subpart F.
FERC-505	Minor Hydroelectric License—Application	19020115	10/31/84	18 CFR 4, Subpart G.
FERC-510	Electric License—Surrender of License	19020068	07/31/82	18 CFR 6.
FERC-511	Electric License—Transfer	19020069	07/31/82	18 CFR 9.
FERC-530	Gas Producer Certificate: Abandonment/Termination	19020051	11/30/84	18 CFR 157.30.
FERC-537	Gas Pipeline Certificate	19020060	06/30/82	18 CFR 2.69, .79, 157.22, .100, 157.5—.18, 284.107, 284.127.
FERC-540	Gas Pipeline Certificate: Transportation Agreement	19020065	06/30/82	18 CFR 2.79.
FERC-541	Gas Pipeline Certificate: Curtailment Plan	19020066	06/30/82	18 CFR 281, 2.78.
FERC-73	Service Life Data	19020019	06/30/82	49 CFR.
FPC-12	Power System Statement	19020035	06/30/82	18 CFR 141.51.

DOE INFORMATION COLLECTIONS DISCONTINUED OR ALLOWED TO EXPIRE

ENERGY INFORMATION ADMINISTRATION

EIA-SG-1	Survey of Galonage Sales of Gasoline	19050006	03/31/82	NA.
EIA-SG-2	Survey of Galonage Sales of Gasoline	19050006	03/31/82	NA.
EIA-SG-4	Survey of Galonage Sales of Gasoline	19050006	03/31/82	NA.
EIA-SG-176	Supply and Disposition of Natural Gas—Distributors	19050017	03/31/82	NA.
EIA-456	Crude Oil Ownership Report	19050096	03/31/82	NA.
EIA-63	Solar Collector Manufacturing Survey	19050074	03/31/82	NA.
EIA-701	Questionnaire for Solar Installers Dealers Survey	19040023	03/31/82	NA.
EIA-758	Natural Gas Producer/Pipeline Contracts Survey	19050127	03/31/82	NA.
EIA-81	Gaseous Fuels Emergency Telephone Survey	19050059	03/31/82	10 CFR 211.12(H).

ECONOMIC REGULATORY ADMINISTRATION

ERA-760R	Certification of Coverage Under FUA/OBRA	19030071	02/28/82	46 FR 48118.

FOSSIL ENERGY

FE-735A	DOE/RCRA Utility Impact Study Verification Document	19010241	01/31/82	NA.

FEDERAL ENERGY REGULATORY COMMISSION

FERC-501	Major Hydroelectric License—New Capacity (Formal)	19020049	03/31/82	[2].
FERC-503	Major Hydroelectric License—Relicense (Formal)	19020053	01/31/82	[2].
FERC-504	Major Hydroelectric License—Relicense (Non-formal)	19020054	01/31/82	[2].
FERC-506	Minor Hydroelectric License—Relicense	19020059	01/31/82	[2].
FERC-507	Minor Hydroelectric License—Constructed	19020063	01/31/82	[2].
FERC-508	Minor Hydroelectric License—Amendment to License	19020064	01/31/82	[2].
FERC-509	Minor Hydroelectric License—Amendment (New Capacity)	19020067	01/31/82	[2].
FERC-513	Hydroelectric License—Transmission Line Application	19020074	01/31/82	[2].
FERC-533	Gas Producer Rate: Special Relief Petition [1]	19020056	02/28/82	18 CFR 2.75, .76, .77.

[1] Submitted to OMB for reinstatement 4-20-82.
[2] Collected under FERC-500. See listing above (DOE Information Collections Extended).
[3] Collected under FERC 505. See listing above (DOE Information Collections Extended).

CHANGES IN CONTINUING DOE INFORMATION COLLECTIONS

DOE number as previously listed	Change
DP-354	Form revised.
EP-119M	New DOE number: EIA-119M.
ERA-166	Form revised.
ERA-182	Form revised.
FERC-500	Consolidates requirements previously listed under FERC-500, FERC-501, FERC-502, FERC-503, FERC-504.
FERC-505	Consolidates requirements previously listed under FERC-506, FERC-507, FERC-508, FERC-509, FERC-513.
ICC-ACV-159	New DOE number: FERC-73.

[FR Doc. 82-14191 Filed 5-25-82; 8:45 am]

BILLING CODE 6450-01-M

federal register

Wednesday
May 26, 1982

Part IV

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee, Meeting; Recombinant DNA Research: Proposed Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at Wilson Hall, Building, 1, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on June 28, 1982, from 9:00 a.m. to adjournment at approximately 6:00 p.m. This meeting will be open to the public to discuss:

Proposed major revision of the Guidelines
Amendment of Guidelines
Proposed exemptions to Guidelines
Other matters requiring necessary action by the Committee

Attendance by the public will be limited to space available.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone (301) 496–6051, will provide materials to be discussed at the meeting, rosters of committee members, and substantive program information. A summary of the meeting will be available at a later date.

In addition, notice is hereby given of a meeting of the Large-Scale Review Working Group sponsored by the Recombinant DNA Advisory Committee at the National Institutes of Health, Wilson Hall, Building 1, 9000 Rockville Pike, Bethesda, Maryland 20205, on June 29, 1982, from 9:00 a.m. to 12:00 noon. The meeting will be open to the public. Attendance will be limited to space available.

Further information may be obtained from Dr. Elizabeth Milewski, Executive Secretary, Large-Scale Review Working Group, NIAID, Building 31, Room 4A52, Bethesda, Maryland, telephone (301) 496–6051.

Dated: May 19, 1982.

Betty J. Beveridge,

National Institutes of Health Committee Management Officer.

Note.—OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

[FR Doc. 82–14374 Filed 5–25–82; 8:45 am]

BILLING CODE 4140–01–M

Recombinant DNA Research: Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, HHS.

ACTION: Notice of proposed revisions of NIH guidelines for research involving recombinant DNA molecules.

SUMMARY: This notice sets forth proposed revisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on June 28–29, 1982, the Director of the National Institute of Allergy and Infectious Diseases will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by June 25, 1982.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland, 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban and Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following proposed revisions of the Guidelines for Research Involving Recombinant DNA Molecules.

I. Proposed Revision of Appendix A. Sublist F

Dr. Gary M. Dunny of the New York State College of Veterinary Medicine requests that *Streptococcus agalactiae* be added to Appendix A, Sublist F, on the basis that it exchanges genetic information with other *Streptococcus* species in Sublist F.

II. Proposed Prohibition

Dr. Richard Novick of the Public Health Research Institute of City of New York and Dr. Richard Goldstein of Harvard Medical School have proposed that a prohibition against the construction of biological weapons by molecular cloning be added to the Guidelines. The rationale for this proposal is outlined in a letter to ORDA.

III. Proposal for Revision of the Guidelines

A. Introduction

The Recombinant DNA Advisory Committee (RAC) at its February 8–9, 1982 meeting, recommended that the National Institutes of Health (NIH) accept a proposed modification (46 FR 59734) of the NIH Guidelines for Research Involving Recombinant DNA Molecules. In supporting this modification, the RAC recommended that a working group be formed to simplify further and modify the document. On April 21, 1982, the NIH promulgated the revised Guidelines (47 FR 17180).

An *ad hoc* Working Group on Revision of the Guidelines was formed and convened for a meeting on April 19, 1982. The committee addressed several issues at this meeting. The first topic was an attempt to improve the "presentation" of the Guidelines. It was felt that most of Section II, which describes physical and biological containment standards, as well as shipping, should be moved to three separate new Appendices (G, H, and I). In addition, the section describing shipment (currently II–C) should be expanded to include further information on packaging and labeling. It was noted that the current Guidelines provide little concrete guidance for shipping materials; rather, they refer the reader to other sources.

Language describing "General Applicability" and "General Definitions" should be removed from Section IV and placed in Section I.

The working group discussed the question of whether the language of Section III–A–1 and Appendix F which refers to "toxins" also applies to other pharmacologically active molecules. A

correspondent questioned whether "pharmacologically active molecules" such as certain hormones should be treated as toxins. Pointing to Section I–B, second paragraph, which cites: "a toxin or a pharmacologically active agent," the working group agreed that the intent of the Guidelines is to cover these types of molecules and recommended that the language dealing with toxins in the Guidelines be amended to reflect that intent.

The working group discussed the issue of which document should be utilized to determine the pathogenic classification of an organism. The original 1976 Guidelines used the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Depatment of Health, Education and Welfare, Public Health Service, Center for Disease Control, as the reference source for classification of microorganisms for the purposes of the Guidelines. All subsequent revisions of the Guidelines have also used this document. At the present time, the Centers for Disease Control (CDC) and the NIH are engaged in an effort to revise the *Classification of Etiologic Agents on the Basis of Hazard*. The working group felt, however, that this revised version might not serve the purposes of the Guidelines as well as the original 1974 version. Nonetheless, the working group noted that additional pathogens should be added to the classification in the Guidelines and that the classification should be updated regularly. It was also noted that some organisms might better be treated in a manner specific for the purposes of the Guidelines. The working group recommended, therefore, that the RAC and NIH adopt for the Guidelines a revised version of the 1974 CDC classification, and that the RAC should assume responsibility for regularly updating the listing. The working group recommended that (a) the following bacteria be added to the list of Class 2 bacterial agents:

Aeromonas Hydrophila
Campylobacter fetus
Campylobacter jejuni
Edwardsiella tarda
Yersinia enterocolitica

and the listing for *Escherichia coli* be changed to refer to "all enteropathogenic, enterotoxigenic, enteroinvasive, and strains bearing Kl antigen;" (b) Vesicular stomatitis virus be listed as a Class 2 viral agent rather than a Class 3 viral agent; (c) Rabies street virus be classified as a Class 3 viral agent for all procedures; (d) Alastrim, Smallpox, and Whitepox should be listed as Class 5 viral agents rather than as Class 3 and Class 4 agents as the study of these viruses is restricted to a single national facility (WHO Collaborating Center for Smallpox Research, Centers for Disease Control) and the language dealing with Poxviruses modified accordingly; (e) Viruses classified as low risk oncogenic viruses by the National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses (October 1974, U.S. Departnment of Health, Education, and Welfare Publication Number (NIH) 75–790) should be classified as Class 2 agents for the purposes of the Guidelines; and (f) Moderate-risk oncogenic viruses should be classified as Class 3 agents for the purposes of the Guidelines. Furthermore, footnotes, references, and the title of Appendix B should be modified to reflect the status of a revised Appendix B.

The working group dealt with the issue of the composition of the Institutional Biosafety Committees (IBCs). A discussion arose as to the necessity of stating in current Section IV–D–2–a that not less than 20% of the membership of the IBC shall not be affliated with the institution. It was felt that the 20% specification limits the flexibility of the university in appointing members to the IBC. The example was offered of an IBC fulfilling the 20% specification, but wishing to add an additional specialist affiliated with the university. However, non-affiliated representation would fall below 20% when this specialist is appointed and the university would have to appoint another non-affiliated member. The specification that at least two members shall not be affiliated with the institution should remain in the Guidelines to ensure community representation. It was felt that in a twenty member committee, two public members would provide adequate representation for the community. Members of the working group could not envisage IBCs larger than 20 members functioning smoothly. In addition, it was noted that ORDA reviews IBC membership for compliance and would be alert to cases in which an institution might attempt to dilute community representation by, for example, appointing a 50 member committee.

The working group also considered the language of current Section IV–D–2–b. A discussion ensued regarding representation on the IBC from the laboratory technical staff. If the term "nondoctoral" was deleted, postdoctoral associates might also be appointed to the IBC. Other members of the working group pointed out that technicians are, indeed, those most likely to be performing recombinant DNA experiments and those having the least "competitive" pressures exerted on them. Although technicians do experience certain types of pressures, many on the working group felt they would be among the best "watchpersons."

The working group also recommended a number of additional changes in the Guidelines. The recommendations of the working group, with minor modifications introduced by NIH staff, are summarized in part B of this announcement. The proposed revised Guidelines (incorporating the changes described in part B of this announcement) are given in their entirety in part C. Several additional proposed changes are given in part D.

B. Summary of Proposed Changes

Specifically, the proposed modifications would accomplish both a reorganization of the Guidelines, and a revision of the specific language of certain sections. The proposed reorganization of the Guidelines would require renumbering of several sections and minor editorial changes throughout the document to reflect this renumbering. These minor changes will not be enumerated below, but interested individuals may refer to the proposed revised Guidelines, which are reprinted *in toto* in part C. The major proposed revisions are enumerated below. Readers should note that sections which are proposed for revision are identified by their current Section numbering. The proposed modified language, however, is identified by new Section numbering when renumbering would occur in that section.

1. *Section I. Scope of the Guidelines.*

a. The text from Section IV–B, *General Applicability*, would be moved to Section I–C, *General Applicability*, and be renumbered.

b. The text from Sections IV–C, *General Definitions*, would be moved to Section I–D, *General Definitions*, with the exception of Section IV–C–1, IV–C–2, and IV–C–8 which would be deleted.

Section IV–C–1 currently reads as follows:

"IV–C–1. 'DNA' means deoxyribonucleic. acid."

Section IV–C–2 currently reads as follows:

"IV–C–2. 'Recombinant DNA' or 'recombinant DNA molecules' means either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules which result from the

replication of malecules described in (i) above."

Section IV–C–8 currently reads as follows:

" 'Federal Interagency Advisory Committee on Recombinant DNA Research' means the committee established in October 1976 to advise the Secretary, HHS, the Assistant Secretary for Health, and the Directory, NIH, on the coordination of those aspects of all Federal programs and activities which related to recombinant DNA research."

Section IV–C–9, the definition of *Laboratory Safety Monograph* would be moved to Appendix G, *Physical Containment.*

The text of current Section IV–C would be renumbered to reflect its new position in I–D and the deletion of current sections IV–C–1, IV–C–2, and IV–C–8.

2. *Section II. Containment.* a. New language is added to the first paragraph of Section II, *Containment,* as follows:

"Four levels of physical containment, which are designated as P1, P2, P3, and P4 are described in Appendix G. P4 provides the most stringent containment conditions, P1 the least stringent."

b. New language is added to the second paragraph of Section II, *Containment,* as follows:

"Further details on biological containment may be found in Appendix I."

c. Section II–A, *Standard Practices and Training,* would be moved to a new Appendix G and renumbered.

d. Section II–B, *Physical Containment Levels,* would be moved to Appendix G and renumbered.

e. The title of Tables I and II in Section II–B, "Combinations of Containment Safeguards," would be changed to "Possible Combinations of Containment Safeguards." The tables would be moved to Appendix G.

f. Section II–C, *Shipment,* would be moved to a new Appendix H and renumbered. Additional information on shipping procedures would be included.

g. Section II–D, *Biological Containment,* would be moved to a new Appendix I and renumbered.

h. The language of item (vi) in the first paragraph of Section II–D–2–b–(2), *HV2 Systems,* which would become Appendix I–II–B–2, would be modified to read:

"(vi) In some cases, the investigator may be asked to submit data on survival and vector transmissibility from experiments in which the host-vector is fed to laboratory animals and human subjects. Such *in vivo* data may be required to confirm the validity of predicting *in vivo* survival on the basis of *in vitro* experiments."

i. Section II–D–3, *Distribution of Certified Host-Vectors,* would be deleted.

3. *Section III. Containment Guidelines for Covered Experiments.*

a. Section III–A would be modified to read as follows:

"III–A. *Experiments that Require RAC Review and NIH and IBC Approval Before Initiation.* Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH, the publication of the proposal in the **Federal Register** for thirty days of comment, review by the RAC, and specific approval by NIH. The containment conditions for such experiments will be recommended by RAC and set by NIH at the time of approval. Such experiments also require the approval of the IBC before initiation. Specific experiments already approved in this section and the appropriate containment conditions are listed in Appendices D and F. If an experiment is similar to those listed in Appendices D and F, ORDA may determine appropriate containment conditions according to case precedents under Section IV–C–1–b–(3)–(g)."

b. Section III–A–1 would be modified to read as follows:

"III–A–1. Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxic molecules lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weith (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neuro-toxin). Specific approval has been given for the cloning in *E. coli* K–12 of DNAs containing genes coding for the biosynthesis of toxic molecules which are lethal to vertebrates at 100 nanograms to 100 micrograms per kilogram body weight. Containment levels for these experiments are specified in Appendix F."

c. The title of Section III–B–1 would be modified to read as follows:

"III–B–1. *Experiments Using Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) as Host-Vector Systems."*

d. Mention of CDC in Sections III–B–1–a, III–B–1–b, and III–B–1–c would be deleted.

e. Section III–B–1–c would be amended to read as follows:

"III–B–1–c. Experiments involving the introduction of recombinant DNA into Class 4 agents can be carried out at P4 containment."

f. A new Section III–B–1–d would be added as follows:

"III–B–1–d. Containment conditions for experiments involving the introduction of recombinant DNA into Class 5 agents will be set on a case-by-case basis following ORDA review. A USDA permit is required for work with Class 5 agents [18,20]"

g. The title of Section III–B–2 would be modified to read as follows:

"III–B–2. Experiments in Which DNA from Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) is Cloned in Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems."

h. Sections III–B–2–a and III–B–2–b would be combined into a single Section III–B–2–a as follows:

"III–B–2–a. Recombinant DNA experiments in which DNA from Class 2 or Class 3 agents [1] is transferred into nonpathogenic prokaryotes or lower eukaryotes may be performed under P2 containment, Recombinant DNA experiments in which DNA from Class 4 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes can be performed at P2 containment after demonstration that only a totally and irreversibly defective fraction of the agant's viral genome is present in a given recombinant. In the absence of such a demonstration, P4 containment should be used.

"Specific lowering of containment to P1 for particular experiments can be approved by the IBC. Many experiments in this category will be exempt from the Guidelines. (See Section III–D–4 and III–D–5.) Experiments involving the formation of recombinant DNAs for certain genes coding for molecules toxic for vertebrates require RAC review and NIH approval (see Section III–A–1), or must be carried out under NIH specified conditions as described in Appendix F."

i. A new Section III–B–2–b dealing with Class 5 agents would be added as follows:

"III–B–2–b. Containment conditions for experiments in which DNA from Class 5 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes will be determined by ORDA following a case-by-case review. A USDA permit is required for work with Class 5 agents [18,20]."

j. A new paragraph would be added immediately after the heading of Section III–B–3 as follows:

"**Caution.**—Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogene) or to extend the host range (e.g., introduction of novel control elements) of viral

vectors under conditions which permit a productive infection.

"In such cases, serious consideration should be given to raising the physical containment by at least one level."

k. Mention of the CDC would be deleted in Sections III–B–3–a, III–B–3–b, and III–B–3–c.

l. Section III–B–3–c would be modified to delete any mention of Class 5 agents as follows:

"III–B–3–c. Experiments involving the use of infectious Class 4 viruses [1], or defective Class 4 viruses in the presence of helper virus, may be carried out under P4 containment."

m. A new Section III–B–3–d would be added as follows:

"III–B–3–d. Experiments involving the use of infectious Class 5 [1] viruses, or defective Class 5 viruses in the presence of helper virus will be determined on a case-by-case basis following ORDA review. A USDA permit is required for work with Class 5 pathogens [18,20]."

n. Section III–B–4–a would be modified to read as follows:

"III–B–4–a. DNA from any source except for greater than two-thirds of a eukaryotic viral genome may be transferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study [2]. It is important that the investigator demonstrate that the fraction of the viral gename being utilized does not lead to productive infection."

4. *Section IV. Roles and Responsibilities.*

a. In the second paragraph of Section IV–A, *Policy,* the responsibility of the Institution would be emphasized by italicizing pertinent language, i.e.:

"The Guidelines are intended to help the Institution, the Institutional Biosafety Committee (IBC), the Biological Safety Officer, and the Principal Investigator determine the safeguards that should be inplemented. These Guidelines will never be complete or final, since all conceivable experiments involving recombinant DNA cannot be foreseen. Therefore, *it is the responsibility of the Institution and those associated with it to adhere to the purpose of the Guidelines as well as to specifics."*

b. Section IV–D, *Responsibilities of the Institution,* would be renumbered to become Section IV–B.

c. The language of Section IV–D–2, *Membership and Procedures of the IBC,* would be renumbered and modified to read as follows:

"IV–B–2. *Membership and Procedures of the IBC.* The institution shall establish an Institutional Biosafety Committee (IBC) whose responsibilities need not be restricted to recombinant DNA. The committee shall meet the following requirements * * *"

d. The requirement specifying that 20% of the IBC membership be non-affiliated with the Institution would be eliminated. Section IV–D–2–a would be renumbered and modified to read as follows:

"IV–B–2–a. The IBC shall comprise no fewer than five members so selected that they collectively have experience and expertise in recombinant DNA technology and the capability to assess the safety of recombinant DNA research experiments and any potential risk to public health or the environment. At least two members shall not be affiliated with the Institution (apart from their membership on the IBC) and shall represent the interest of the surrounding community with respect to health and protection of the environment. Members meet this requirement if, for example, they are officials of State or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical, occupational health, or environmental concerns in the community. The Biological Safety Officer (BSO), mandatory when research is being conducted at the P3 and P4 levels, shall be a member (See Section IV–B–4.)"

e. The language of Section IV–D–2–b on professional competence and the specification on laboratory staff would be renumbered and modified to read as follows:

"IV–B–2–b. In order to ensure the competence necessary to review recombinant DNA activities, it is recommended that (i) the IBC include persons with expertise in recombinant DNA technology, biological safety, and physical containment; (ii) the IBC include, or have available as consultants, persons knowledgeable in institutional commitments ans policies, applicable law, standards of professional conduct and practice, community attitudes, and the environment; and (iii) at least one member be from the laboratory technical staff."

f. Section IV–D–2–e would be renumbered and modified to read as follows:

"IV–B–2–e. The Institution, who is ultimately responsible for the effectiveness of the IBC, may establish procedures that the IBC will follow in its initial and continuing review of applications, proposals, and activities. (IBC review procedures are specified in Section IV–B–3–a.)"

g. Section IV–D–2–f would be deleted. Section IV–D–2–f currently reads as follows:

"IV–D–2–f. Central to implementation of the Guidelines is the review of experiments by the IBC."

h. Section IV–D–2–h would be renumbered and modified to read as follows:

"IV–B–2–g. Upon request, the Institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public. If comments are made by members of the public on IBC actions, the Institution shall forward to NIH both the comments and IBC's response."

i. Two new specifications would be added to Section IV–D–3 (renumbered IV–B–3), *Functions of the IBC,* as follows:

"IV–B–3–c. Lowering containment levels for certain experiments as specified in Sections III–B–2. IV–B–3–d. Setting containment levels as specified in III–B–4–b and III–B–5."

The Section would be renumbered to reflect these additions.

j. A new Section under IV–D–5–a (renumbered IV–B–5–a) would be added to reflect the PI's responsibility unddner Section III–C as follows:

"IV–B–5–a–(2). Determine whether experiments are covered by Section III–C and follow the appropriate procedures;"

The other Sections within IV–D–5 (renumbered IV–B–5) would be renumbered to reflect this addition.

k. Section IV–D–5–e–(5), *Publications,* would be deleted. Section IV–D–5–e–(5) currently reads as follows:

"IV–D–5–e–(5). *Publications.* PIs are urged to include, in all publications reporting on recombinant DNA research, a description of the physical and biological containment procedures employed."

l. Section IV–E, *Responsibilities of NIH,* would be renumbered to become Section IV–C.

m. The first sentence of the second paragraph of Section IV–E–1 (renumbered IV–C–1), *Director,* would be modified to read as follows:

"The Director has responsibilities under the Guidelines that involve the NIH Office of Recombinant DNA Activities (ORDA) and the Recombinant DNA Advisory Committee (RAC). ORDA's responsibilities under the Guidelines are administrative. Advice from the RAC is primarily scientific and technical. In certain circumstances, there is specific opportunity for public

comment, with published response, before final action."

n. Section IV–E–1–b (renumbered IV–C–1–b), *Specific Responsibilities of the Director, NIH,* would read as follows:

"IV–C–1–b. *Specific Responsibilities of the Director, NIH.* In carrying out responsibilities set forth in this Section, the Director or a designee shall weigh each proposed action, through appropriate analysis and consultation, to determine that it complies with the Guidelines and presents no significant risk to health or the environment."

o. Section IV–E–1–b–(1) (renumbered IV–C–1–b–(1)) would be modified to read as follows:

"IV–C–1–b–(1). *Major Actions.* To execute major actions the Director must seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the agenda of the RAC meeting citing the major actions will be published in the **Federal Register** at least 30 days before the meeting, and the Director will also publish the proposed actions in the **Federal Register** for comment at least 30 days before the meeting. In addition, the Director's proposed decision, at his discretion, may be published in the **Federal Register** for 30 days of comment before final action is taken. The Director's final decision, along with response to comments will be published in the **Federal Register** and the *Recombinant DNA Technical Bulletin.* The RAC and IBC chairpersons will be notified of this decision:"

p. The order of the subsections under Section IV–E–1–b–(1) (renumbered IV–C–1–b–(1)) would be modified.

q. Section IV–E–1–b–(2) (renumbered IV–C–1–b–(2)) would be modified to read:

"IV–C–1–b–(2). *Lesser Actions.* To execute lesser actions, the Director must seek the advice of the RAC. The Director's decision will be transmitted to the RAC and the IBC chairpersons and published in the *Recombinant DNA Technical Bulletin."*

r. Section IV–E–1–b–(2)–(d) (renumbered IV–C–1–b–(2)–(d)) would be modified to read as follows:

"IV–C–1–b–(2)–(d). Revising the 'Classification of Etiologic Agents' for the purposes of these Guidelines [1]."

s. Section IV–E–1–b–(3) (renumbered IV–C–1–b–(3)), would read as follows:

"IV–C–1–b–(3). *Other Actions.* The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin."*

t. A new Section IV–C–1–b–(3)–(b) would be added as follows:

"IV–C–1–b–(3)–(b). Setting containment under Section III–B–1–d and Section III–B–3–d."

The order of subsections of Section IV–E–1–b–(3) (renumbered IV–C–1–b–(3)) would be modified and the subsections renumbered.

u. Section IV–E–4–b would be deleted. Section IV–E–4–b reads as follows:

"IV–E–4–b. Announcing and distributing certified HV2 host-vector systems (see Section II–D–3)."

v. Section IV–F, *Compliance,* would be renumbered to become Section IV–D.

w. A note would be added to Section IV–F–4 which would be renumbered as Section IV–D–4 as follows:

> Note.—Other Federal agencies which have adopted the NIH Guidelines may have the authority to terminate funding to their grantees should these grantees not comply with the NIH Guidelines."

5. *Section V. Footnotes and References.*

a. The title of the Section would be amended to read:

"V. Footnotes and References of Sections I–IV"

b. The footnotes and references would be rearranged and renumbered. Footnotes and references applying to Appendices would be moved to relevant Appendices.

c. Reference (1) would be modified to read:

"1. The original reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard,* 4th Edition, July 1974, U.S. Department of Health, Education and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

"The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may revise the classification for the puposes of these Guidelines (see Section IV–C–1–b–(2)–(d)). The revised list of organisms in each class is reprinted in Appendix B of these Guidelines."

6. *Section VI. Voluntary Compliance.*

a. The second paragraph of Section VI–C, *Certification of Host-Vector Systems,* would be deleted. That paragraph reads as follows:

"Institutions not otherwise covered by the Guidelines will not be subject to Section II–D–3 by complying with these procedures."

7. *Appendix B. Classification of Microorganisms on the Basis of Hazard.*

a. The title of the first heading, I, In Appendix B would be changed to read:

"Appendix B–I. Classification of Etiologic Agents. [The original reference for this classification was the publication *'Classification of Etiological Agents on the Basis of Hazard,'* 4th edition, July 1974, U.S. Department of Health, Education and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. For the purposes of these Guidelines, this list has been revised by NIH.]"

b. The following organisms would be added to the list of Class 2 bacterial agents:

"Aeromonas hydrophila
Campylobacter fetus
Campylobacter jejuni
Edwardsiella tarda
Yersinia enterocolita"

c. The language describing Class 2 *E. coli* would be modified to read:

"Escherichia coli—all enteropathogenic, enterotoxigenic, enteroinvasive and strains bearing K1 antigen."

d. Vesicular Stomatitis Virus would be added to Class 2 viral agents and deleted from Class 3 viral agents.

e. The following modifications concerning *Poxvirus* and *Rabies Virus* would be made in Class 2 viral agents:

"Poxviruses—all types except *Alastrim, Smallpox,* and *Whitepox,* which are Class 5 and *Monkey Pox,* which depending on experiments, is in Class 3 or Class 4.

"Rabies virus—all strains except *Rabies street* virus, which should be classified in Class 3."

f. *Alastrim, Smallpox,* and *Whitepox* would be reclassified from Class 3 and Class 4 agents to Class 5 agents.

g. The language including *Rabies street* virus as a Class 3 agent would read:

"Rabies street virus"

h. The language in Class 4 viral agents on *Monkey pox* would read:

"Monkey pox, when used for transmission or animal inoculation experiments [4]."

i. Descriptive language would be added to the *Classification of Oncogenic Viruses on the Basis of Potential Hazard [5]* as follows:

"Appendix B–II–A. *Low-Risk Oncogenic Viruses.* These viruses should be treated as Class 2 agents.

"Appendix B–II–B. *Moderate-Risk Oncogenic Viruses.* These viruses should be treated as Class 3 agents."

j. Class 5 Agents (Appendix B–III) would be separated into the following categories:

"Appendix B–III–A. *Animal Disease Organisms Which Are Forbidden Entry Into the United States by Law."*

"Appendix B–III–B. *Animal Disease Organisms and Vectors Which Are*

Forbidden Entry Into the United States by USDA Policy."

"Appendix B–III–C. *Organisms Which May Not Be Studied in the United States Except at Specified Facilities."*

8. *Appendix C. Exemptions Under III–D–5.*

a. The language dealing with the introduction of genes coding for the biosynthesis of toxins in this Appendix would be modified to read:

"Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates."

b. The abbreviation "CDC" would be deleted from this Appendix.

9. *Appendix F. Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Toxins for Vertebrates.*

a. The title of Appendix F would be changed to read as follows:

"CONTAINTMENT CONDITIONS FOR CLONING GENES CODING FOR THE BIOSYNTHESIS OF MOLECULES TOXIC FOR VERTEBRATES."

b. Section Appendix F–I, *General Information,* would read as follows:

Appendix F–I. *General Information.* Appendix F specifies the containment to be used for the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. Cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin) is prohibited. No specific restrictions shall apply to the cloning of genes if the protein specified by the gene has an LD_{50} of 100 micrograms or more per kilogram of body weight. Experiments involving genes coding for toxic molecules with an LD_{50} of 100 micrograms or less per kilogram body weight shall be registered with ORDA prior to initiating the experiments. A list of toxic molecules classified as to LD_{50} is available from ORDA. Testing procedures for determining toxicity of toxic molecules not on the list are available from ORDA. The results of such tests shall be forwarded to ORDA, which will consult with an *ad hoc* working group on toxic molecules prior to inclusion of the molecule on the list. (See Section IV–C–1–b–(2)–(e).)"

c. The title of Section Appendix F–II would read:

"Appendix F–II. *Containment Conditions for Cloning Toxic Molecule Genes in E. coli K–12."*

d. In Section Appendix F–II, the work "toxins" would be replaced by the words "molecules toxic."

e. The title of Section Appendix F–III would read:

"Containment Conditions for Cloning of Toxic Molecule Genes in Organisms Other Than E. coli K–12."

f. Appendix F–III, *Containment Conditions for Cloning of Toxic Genes in Organisms Other Than E. coli K–12* would read:

"Requests involving the cloning of genes coding for molecules toxic for vertebrates in host-vector systems other than *E. coli* K–12 will be evaluated by ORDA, which will consult with the *ad hoc* working group on toxic molecules. (See Section IV–C–1–b–(3)–(f).)"

10. *Appendix G. Physical Containment.*

a. A third paragraph would be added to new Section Appendix G–I as follows:

"The *'Laboratory Safety Monograph,'* available from ORDA, describes practices, equipment, and facilities in detail."

11. *Table of Contents.*

The table of contents would be rearranged to reflect the reorganization of the document and be expanded to better identify the position of various sections in the document.

12. *Appendices.*

All Appendices would be renumbered to reflect their status as Appendices.

C. *Proposed Revised Guidelines for Research Involving Recombinant DNA Molecules.*

Table of Contents

I. Scope of the Guidelines
- I–A—Purpose
- I–B—Definition of Recombinant DNA Molecules
- I–C—General Applicability
- I–D—General Definitions

II. Containment

III. Containment Guidelines for Covered Experiments
- III–A—Experiments that Require RAC Review and NIH and IBC Approval Before Initiation
- III–B—Experiments that Require IBC Approval Before Initiation
- III–B–1—Experiments Using Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents) as Host-Vector Systems
- III–B–2—Experiments in which DNA from Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents) is Cloned in Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems
- III–B–3—Experiments Involving the Use of Infectious Animal or Plant Viruses or Defective Animal or Plant Viruses in the Presence of Helper Virus in Tissue Culture Systems
- III–B–4—Recombinant DNA Experiments Involving Whole Animals or Plants
- III–B–5—Experiments Involving More than 10 Liters of Culture
- III–C—Experiments that Require IBC Notice Simultaneously with Initiation of Experiments
- III–D—Exempt Experiments

IV. Roles and Responsibilities
- IV–A—Policy
- IV–B—Responsibility of the Institution
- IV–B–1—General Information
- IV–B–2—Membership and Procedures of the IBC
- IV–B–3—Functions of the IBC
- IV–B–4—Biological Safety Officer
- IV–B–5—Prinicpal Investigator
- IV–B–5–a—PI—General
- IV–B–5–b—Submissions by the PI to NIH
- IV–B–5–c—Submissions by the PI to the IBC
- IV–B–5–d—PI Responsibilities Prior to Initiating Research
- IV–B–5–e—PI Responsibilities During the Conduct of the Research
- IV–C—Responsibilities of NIH
- IV–C–1—Director
- IV–C–1–a—General Responsibilities of the Director, NIH
- IV–C–1–b—Specific Responsibilities of the Director, NIH
- IV–C–2—Recombinant DNA Advisory Committee
- IV–C–3—The Office of Recombinant DNA Acitivies
- IV–C–4—Other NIH Components
- IV–D—Compliance

V. Footnotes and References of Sections I–IV

VI. Voluntary Compliance
- VI–A—Basic Policy
- VI–B—IBC Approval
- VI–C—Certification of Host-Vector Systems
- VI–D—Requests for Exemptions and Approvals
- VI–E—Protection of Proprietary Data

Appendix A. Exemptions Under III–D–4

Appendix B. Classification of Microogranisms on the Basis of Hazard
- Appendix B–I—Classification of Etiologic Agents
- Appendix B–I–A—Class 1 Agents
- Appendix B–I–B—Class 2 Agents
- Appendix B–I–B–1—Bacterial Agents
- Appendix B–I–B–2—Fungal Agents
- Appendix B–I–B–3—Parastic Agents
- Appendix B–I–B–4—Viral, Rickettsial, and Chlamydial Agents
- Appendix B–I–C—Class 3 Agents
- Appendix B–I–C–1—Bacterial Agents
- Appendix B–I–C–2—Fungal Agents
- Appendix B–I–C–3—Parasitic Agents
- Appendix B–I–C–4—Viral, Rickettsial, and Chlamydial Agents
- Appendix B–I–D—Class 4 Agents
- Appendix B–I–D–1—Bacterial Agents
- Appendix B–I–D–2—Fungal Agents
- Appendix B–I–D–3—Parasitic Agents
- Appendix B–I–D–4—Viral, Rickettsial, and Chlamydial Agents
- Appendix B–II—Classification of Oncogenic Viruses on the Basis of Potential Hazard
- Appendix B–II–A—Low Risk Oncogenic Viruses
- Appendix B–II–B—Moderate-Risk Oncogenic Viruses
- Appendix B–III—Class 5 Agents
- Appendix B–III–A—Animal Disease Organisms Which are Forbidden Entry into the United States by Law

Appendix B–III–B—Animal Disease Organisms and Vectors Which are Forbidden Entry into the United States by USDA Policy
Appendix B–III–C—Organisms Which May Not Be Studied in the United States Except At Specified Facilities
Appendix B–IV—Footnotes and References of Appendix B
Appendix C. Exemptions Under III–D–5
Appendix C–I—Recombinant DNAs in Tissue Culture
Appendix C–II—Experiments Involving *E. coli* K–12 Host-Vector Systems
Appendix C–III—Experiments Involving *Saccharomyces cerevisiae* Host-Vector Systems
Appendix C–IV—Experiments Involving *Bacillus subtilis* Host-Vector Systems
Appendix C–V—Footnotes and References of Appendix C
Appendix D. Actions Taken Under the Guidelines
Appendix E. Certified Host-Vector Systems
Appendix F. Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates
Appendix F–I—General Information
Appendix F–II—Containment Conditions for Cloning of Toxic Molecule Genes in *E. coli* K–12
Appendix F–III—Containment Conditions for Cloning of Toxic Molecule Genes in Organisms Other than *E. coli* K–12
Appendix F–IV—Specific Approvals
Appendix G. Physical Containment
Appendix G–I—Standard Practices and Training
Appendix G–II—Physical Containment Levels
Appendix G–II–A—P1 Level
Appendix G–II–A–1—Laboratory Practices
Appendix G–II–A–2—Containment Equipment
Appendix G–II–A–3—Special Laboratory Design
Appendix G–II–B—P2 Level
Appendix G–II–B–1—Laboratory Practices
Appendix G–II–B–2—Containment Equipment
Appendix G–II–B–3—Special Laboratory Design
Appendix G–II–C—P3 Level
Appendix G–II–C–1—Laboratory Practices
Appendix G–II–C–2—Containment Equipment
Appendix G–II–C–3—Special Laboratory Design
Appendix G–II–D—P4 Level
Appendix G–II–D–1—Laboratory Practices
Appendix G–II–D–2—Containment Equipment
Appendix G–II–D–3—Special Laboratory Design
Appendix G–III—Footnotes and References of Appendix G
Appendix H. Shipment
Appendix I. Biological Containment
Appendix I–I—Levels of Biological Containment
Appendix I–I–A—HV1
Appendix I–I–A–1—EK1
Appendix I–I–A–2—Other HV1
Appendix I–I–B—HV2
Appendix I–II—Certification of Host-Vector Systems
Appendix I–II–A—Responsibility
Appendix I–II–B—Data To Be Submitted for Certification
Appendix I–II–B–1—HV1 Systems Other than *E. coli* K–12
Appendix I–II–B–2—HV2 Systems
Appendix I–III—Footnotes and References of Appendix I

I. Scope of the Guidelines

I–A. *Purpose.* The purpose of these Guidelines is to specify practices for constructing and handling (i) recombinant DNA molecules and (ii) organisms and viruses containing recombinant DNA molecules.

I–B. *Definition of Recombinant DNA Molecules.* In the context of these Guidelines, recombinant DNA molecules are defined as either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules that result from the replication of those described in (i) above.

Synthetic DNA segments likely to yield a potentially harmful polynucleotide or polypeptide (e.g., a toxin or a pharmacologically active agent) shall be considered as equivalent to their natural DNA counterpart. If the synthetic DNA segment is not expressed *in vivo* as a biologically active polynucleotide or polypeptide product, it is exempt from the Guidelines.

I–C. *General Applicability.* The Guidelines are applicable to all recombinant DNA research within the United States or its territories which is conducted at or sponsored by an Institution that receives any support for recombinant DNA research from NIH. This includes research performed by NIH directly.

An individual receiving support for research involving recombinant DNA must be associated with or sponsored by an Institution that can and does assume the responsibilities assigned in these Guidelines.

The Guidelines are also applicable to projects done abroad if they are supported by NIH funds. If the host country, however, has established rules for the conduct of recombinant DNA projects, then a certificate of compliance with those rules may be submitted to NIH in lieu of compliance with the NIH Guidelines. NIH reserves the right to withhold funding if the safety practices to be employed abroad are not reasonably consistent with the NIH Guidelines.

I–D. *General Definitions.* The following terms, which are used throughout the Guidelines, are defined as follows:

IV–D–1. "Institution" means any public or private entity (including Federal, State, and local government agencies).

I–D–2. "Institutional Biosafety Committee" or "IBC" means a committee that (i) meets the requirements for membership specified in Section IV–B–2, and (ii) reviews, approves, and oversees projects in accordance with the responsibilities defined in Sections IV–B–2 and IV–B–3.

I–D–3. "NIH Office of Recombinant DNA Activities" or "ORDA" means the office within NIH with responsibility for (i) reviewing and coordinating all activities of NIH related to the Guidelines, and (ii) performing other duties as defined in Section IV–C–3.

I–D–4. "Recombinant DNA Advisory Committee" or "RAC" means the public advisory committee that advises the Secretary, the Assistant Secretary for Health, and the Director of the National Institutes of Health concerning recombinant DNA research. The RAC shall be constituted as specified in Section IV–C–2.

I–D–5. "Director, NIH" or "Director" means the Director of the National Institutes of Health or any other officer or employee of NIH to whom authority has been delegated.

II. Containment

Effective biological safety programs have been operative in a variety of laboratories for many years. Considerable information, therefore, already exists for the design of physical containment facilities and the selection of laboratory procedures applicable to organisms carrying recombinant DNAs [3–16]. The existing programs rely upon mechanisms that, for convenience, can be divided into two categories: (i) A set of standard practices that are generally used in microbiological laboratories, and (ii) special procedures, equipment, and laboratory installations that provide physical barriers which are applied in varying degrees according to the estimated biohazard. Four levels of physical containment, which are designated as P1, P2, P3, and P4 are described in Appendix G. P4 provides the most stringent containment conditions, P1 the least stringent.

Experiments on recombinant DNAs, by their vary nature, lend themselves to a third containment mechanism—namely, the application of highly specific biological barriers. In fact, natural barriers do exist which limit either (i) the infectivity of a *vector*, or *vehicle*, (plasmid or virus) for specific hosts or (ii) its dissemination and survival in the environment. The vectors

that provide the means for replication of the recombinant DNAs and/or the host cells in which they replicate can be genetically designed to decrease by many orders of magnitude the probability of dissemination of recombinant DNAs outside the laboratory. Further details on biological containment may be found in Appendix I.

As these three means of containment are complementary, different levels of containment appropriate for experiments with different recombinants can be established by applying various combinations of the physical and biological barriers along with a constant use of the standard practices. We consider these categories of containment separately in order that such combinations can be conveniently expressed in the Guidelines.

In constructing these Guidelines, it was necessary to define boundary conditions for the different levels of physical and biological containment and for the classes of experiments to which they apply. We recognize that these definitions do not take into account all existing and anticipated information on special procedures that will allow particular experiments to be carried out under different conditions than indicated here without affecting risk. Indeed, we urge that individual investigators devise simple and more effective containment procedures and that investigators and institutional biosafety committees recommend changes in the Guidelines to permit their use.

III. Containment Guidelines for Covered Experiments

Part III discusses experiments involving recombinant DNA. These experiments have been divided into four classes:

III–A. Experiments which require specific RAC review and NIH and IBC approval before initiation of the experiment;

III–B. Experiments which require IBC approval before initiation of the experiment;

III–C. Experiments which require IBC notification at the time of initiation of the experiment;

III–D. Experiments which are exempt from the procedures of the Guidelines.

If an experiment falls into both Class III–A and one of the other clases, the rules pertaining to Class III–A must be followed. If an experiment falls into class III–D and into either class III–B or III–C as well, it can be considered exempt from the requirements of the Guidelines.

Changes in containment levels from those specified here may not be instituted without the express approval of the Director, NIH. (See Sections IV–C–1–b–(1), IV–C–1–b–(2), and subsections.)

III–A. *Experiments that Require RAC Review and NIH and IBC Approval Before Initiation.* Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH, the publication of the proposal in the Federal Register for thirty days of comment, review by the RAC, and specific approval by NIH. The containment conditions for such experiments will be recommended by RAC and set by NIH at the time of approval. Such experiments also require the approval of the IBC before initiation. Specific experiments already approved in this section and the appropriate containment conditions are listed in Appendices D and F. If an experiment is similar to those listed in Appendices D and F, ORDA may determine appropriate containment conditions according to case precedents under Section IV–C–1–b–(3)–(g).

III–A–1. Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxic molecules lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella Dysenteriae* neurotoxin). Specific approval has been given for the cloning in *E. coli* K–12 of DNAs containing genes coding for the biosynthesis of toxic molecules which are lethal to vertebrates at 100 nanograms to 100 micrograms per kilogram body weight. Containment levels for these experiments are specified in Appdenix F.

III–A–2. Deliberate release into the environment of any organism containing recombinant DNA.

III–A–3. Deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire it naturally [2], if such acquisition could compromise the use of the drug to control disease agents in human or veterinary medicine or agriculture.

III–B. *Experiments that Require IBC Approval Before Initiation.* Investigators performing experiments in this category must submit to their Institutional Biosafety Committee (IBC), prior to initiation of the experiments, a registration document that contains a description of: (a) The source(s) of DNA, (b) the nature of the inserted DNA sequences, (c) the hosts and vectors to be used, (d) whether a deliberate attempt will be made to obtain expression of a foreign gene, and, if so, what protein will be produced, and (e) the containment conditions specified in these Guidelines. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals prior to initiation of the experiments. Requests for lowering of containment for experiments in this category will be considered by NIH. (See Section IV–C–1–b–(3).)

III–B–1. *Experiments Using Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) as Host-Vector Systems.*

III–B–1–a. Experiments involving the introduction of recombinant DNA into Class 2 agents can be carried out at P2 containment.

III–B–1–b. Experiments involving the introduction of recombinant DNA into Class 3 agents can be carried out at P3 containment.

III–B–1–c. Experiments involving the introduction of recombinant DNA into Class 4 agents can be carried out at P4 containment.

III–B–1–d. Containment conditions for experiments involving the introduction of recombinant DNA into Class 5 agents will be set on a case-by-case basis following ORDA review. A USDA permit is required for work with Class 5 agents [18, 20].

III–B–2. *Experiments in Which DNA from Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) is Cloned in Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems.*

III–B–2–a. Recombinant DNA experiments in which DNA from Class 2 or Class 3 agents [1] is tranferred into nonpathogenic prokaryotes or lower eukaryotes may be performed under P2 containment. Recombinant DNA experiments in which DNA from Class 4 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes can be performed at P2 containment after demonstration that only a totally and irreversibly defective fraction of the agent's viral genome is present in a given recombinant. In the absence of such a demonstration, P4 containment should be used. Specific lowering of containment to P1 for particular experiments can be approved by the IBC. Many experiments in this category will be exempt from the Guidelines. (See Sections III–D–4 and III–D–5.) Experiments involving the formation of recombinant DNAs for certain genes coding for molecules toxic for vertebrates requires RAC review and NIH approval (see Section III–a–1), or

must be carried out under NIH specified conditions as described in Appendix F.

III–B–2–b. Containment conditions for experiments in which DNA from Class 5 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes will be determined by ORDA following a case-by-case review. A USDA permit is required for work with Class 5 agents [18, 20].

III–B–3. *Experiments Involving the Use of Infectious Animal or Plant Viruses or Defective Animal or Plant Viruses in the Presence of Helper Virus in Tissue Culture Systems.*

Caution: Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogene) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

Note.—Recombinant DNA molecules which contain less than two-thirds of the genome of any eukaryotic virus (all virus from a single Family [17] being considered indentical [19]) may be considered defective and can be used, in the absence of helper, under the conditions specified in Section III–C.

III–B–3–a. Experiments involving the use of infectious Class 2 animal viruses [1], or defective Class 2 animal viruses in the presence of helper virus, can be performed at P2 containment.

III–B–3–b. Experiments involving the use of infectious Class 3 animal viruses [1], or defective Class 3 animal viruses in the presence of helper virus, can be carried out at P3 containment.

III–B–3–c. Experiments involving the use of infectious Class 4 viruses [1], or defective Class 4 viruses in the presence of helper virus, may be carried out under P4 containment.

III–B–3–d. Experiments involving the use of infectious Class 5 [1] viruses, or defective Class 5 viruses in the presenct of helper virus will be determined on a case-by-case basis following ORDA review. A USDA permit is required for work with Class 5 pathogens [18,20].

III–B–3–e. Experiments involving the use of infectious animal or plant viruses, or defective animal or plant viruses in the presence of helper virus, not covered by Sections III–B–3–a, III–B–3–b, III–B–3–c, or III–B–3–d may be carried out under P1 containment.

III–B–4. *Recombinant DNA Experiments Involving Whole Animals or Plants.*

III–B–4–a. DNA from any source except for greater than two-thirds of a eukaryotic viral genome may be transferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study [2]. It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection.

III–B–4–b. For all experiments involving whole animals and plants and not covered by III–B–4–a, the appropriate containment will be determined by the IBC.

–B–5. *Experiments Involving More than 10 Liters of Culture.* The appropriate containment will be decided by the IBC. Where appropriate, the large-scale containment recommendations of the NIH should be used (45 FR 24968).

III–C. *Experiments that Require IBC Notice Simultaneously with Initiation of Experiments.* Experiments not included in Sections III–A, III–B, III–D, and subsections of these Sections are to be considered in Section III–C. All such experiments can be carried out at P1 containment. For experiments in this category, a registration document as described in Section III–B must be dated and signed by the investigator and filed with the local IBC. The IBC shall review all such proposals, but IBC review prior to initiation of the experiment is not required.

For example, experiments in which all components derive from non-pathogenic prokaryotes and non-pathogenic lower eukaryotes fall under Section III–C and can be carried out at P1 containment.

Caution: Experiments Involving Formation or Recombinant DNA Molecules Containing no more Than Two-Thirds of the Genome of any Eukaryotic Virus. Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus (all viruses from a single Family [17] being considered identical [19]) may be propagated and maintained in cells in tissue culture using P1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. If helper virus is present, procedures specified under Section III–B–3 should be used. The DNA may contain fragments of the genome of viruses from more than one Family but each fragment must be less than two-thirds of a genome.

III–D. *Exempt Experiments.* The following recombinant DNA molecules are exempt from these Guidelines and no registration with the IBC is necessary.

III–D–1. Those that are not in organisms or viruses.

III–D–2. Those that consist entirely of DNA segments from a single nonchromosomal or viral DNA source, though one or more of the segments may be a synthetic equivalent.

III–D–3. Those that consist entirely of DNA from a prokaryotic host, including its indigenous plasmids or viruses, when propagated only in that host (or a closely related strain of the same species) or when transferred to another host by well established physiological means; also those that consist entirely of DNA from an eularyotic host, including its chloroplasts, mitochondria, or plasmids (but excluding viruses), when propagated only in that host (or a closely related strain of same species).

III–D–4. Certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment. (See Section IV–C–1–b–(1)–(c).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix A. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

III–D–5. Other classes of recombinant DNA molecules, if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. (See Section IV–C–1–b–(1)–(c).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix C. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

IV. Roles and Responsibilities

IV–A. *Policy.* Safety in activities involving recombinant DNA depends on the individual conducting them. The Guidelines cannot anticipate every possible situation. Motivation and good judgment are the key essentials to protection of health and the environment.

The Guidelines are intended to help the Institution, the Institutional Biosafety Committee (IBC), the Biological Safety Officer, and the Principal Investigator determine the safeguards that should be implemented. These Guidelines will never be complete

or final, since all conceivable experiments involving recombinant DNA cannot be foreseen. Therefore, *it is the responsibility of the Institution and those associated with it to adhere to the purpose of the Guidelines as well as to their specifics.*

Each Institution (and the IBC acting on its behalf) is responsible for ensuring that recombinant DNA activities comply with the Guidelines. General recognition of institutional authority and responsibility properly establishes accountability for safe conduct of the research at the local level.

The following roles and responsibilities constitute an administrative framework in which safety is an essential and integral part of research involving recombinant DNA molecules. Further clarifications and interpretations of roles and responsibilities will be issued by NIH as necessary.

IV–B. *Responsibilities of the Institution.*

IV–B–1. *General Information.* Each Institution conducting or sponsoring recombinant DNA research covered by these Guidelines is responsible for ensuring that the research is carried out in full conformity with the provisions of the Guidelines. In order to fulfill this responsibility, the Institution shall:

IV–B–1–a. Establish and implement policies that provide for the safe conduct of recombinant DHA research and that ensure compliance with the Guidelines. The Institution, as part of its general responsibilities for implementing the Guidelines, may establish additional procedures, as deemed necessary, to govern the Institution and its components in the discharge of its responsibilities under the Guidelines. This may include (i) statements formulated by the Institution for general implementation of the Guidelines and (ii) whatever additional precautionary steps the Institution may deem appropriate.

IV–B–1–b. Establish an Institutional Biosafety Committee (IBC) that meets the requirements set forth in Section IV–B–2 and carries out the functions detailed in Section IV–B–3.

IV–B–1–c. If the Institution is engaged in recombinant DNA research at the P3 or P4 containment level, appoint a Biological Safety Officer (BSO), who shall be a member of the IBC and carry out the duties specified in Section IV–B–4.

IV–B–1–d. Require that investigators responsible for research covered by these Guidelines comply with the provisions of Section IV–B–5, and assist investigators to do so.

IV–B–1–e. Ensure appropriate training for the IBC chairperson and members, the BSO, Principal Investigators (PIs), and laboratory staff regarding the Guidelines, their implementation, and laboratory safety. Responsibility for training IBC Members may be carried out through the IBC chairperson. Responsibility for training laboratory staff may be carried out through the PI. The Institution is responsible for seeing that the PI has sufficient training, but may delegate this responsibility to the IBC.

IV–B–1–f. Determine the necessity, in connection with each project, for health surveillance of recombinant DNA research personnel, and conduct, if found appropriate, a health surveillance program for the project. [The Laboratory Safety Monograph (LSM) discusses various possible components of such a program—for example, records of agents handled, active investigation of relevant illnesses, and the maintenance of serial serum samples for monitoring serologic changes that may result from the employees' work experience. Certain medical conditions may place a laboratory worker at increased risk in any endeavor where infectious agents are handled. Examples given in the LSM include gastrointestinal disorders and treatment with steriods, immunosuppressive drugs, or antibiotics. Workers with such disorders or treatment should be evaluated to determine whether they should be engaged in research with potentially hazardous organisms during their treatment or illness. Copies of the LSM are available from ORDA.]

IV–B–1–g. Report within 30 days to ORDA any significant problems with and violations of the Guidelines and significant research-related accidents and illnesses, unless the institution determines that the PI or IBC has done so.

IV–B–2. *Membership and Procedures of the IBC.* The Institution shall establish an Institutional Biosafety Committee (IBC) whose responsibilities need not be restricted to recombinant DNA. The committee shall meet the following requirements:

IV–B–2–a. The IBC shall comprise no fewer than five members so selected that they collectively have experience and expertise in recombinant DNA technology and the capability to assess the safety of recombinant DNA research experiments and any potential risk to public health or the environment. At least two members shall not be affiliated with the Institution (apart from their membership on the IBC) and shall represent the interest of the surrounding community with respect to health and protection of the environment. Members meet this requirement if, for example, they are officials of State or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical, occupational health, or environmental concerns in the community. The Biological Safety Officer (BSO), mandatory when research is being conducted at the P3 and P4 levels, shall be a member. (See Section IV–B–4.)

IV–B–2–b. In order to ensure the competence necessary to review recombinant DNA activities, it is recommended that (i) the IBC include persons with expertise in recombinant DNA technology, biological safety, and physical containment; (ii) the IBC include, or have available as consultants, persons knowledgeable in institutional commitments and policies, applicable law, standards of professional conduct and practice, community attitudes, and the environment; and (iii) at least one member be from the laboratory technical staff.

IV–B–2–c. The Institution shall identify the committee members by name in a report to the NIH Office of Recombinant DNA Activities (ORDA) and shall include relevant background information on each member in such form and at such times as ORDA may require.

IV–B–2–d. No member of an IBC may be involved (except to provide information requested by the IBC) in the review or approval of a project in which he or she has been, or expects to be, engaged or has a direct financial interest.

IV–B–2–e. The Institution, which is ultimately responsible for the effectiveness of the IBC, may establish procedures that the IBC will follow in its initial and continuing review of applications, proposals, and activities. (IBC review procedures are specified in Section IV–B–3–a.)

IV–B–2–f. Institutions are encouraged to open IBC meetings to the public whenever possible, consistent with protection of privacy and proprietary interests.

IV–B–2–g. Upon request, the Institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public. If comments are made by members of the public on IBC actions, the Institution shall forward to NIH both the comments and the IBC's response.

IV–B–3. *Functions of the IBC.* On behalf of the Institution, the IBC is responsible for:

IV–B–3–a. Reviewing for compliance with the NIH Guidelines recombinant DNA research as specified in Part III conducted at or sponsored by the Institution, and approving those research projects that it finds are in conformity with the Guidelines. This review shall include:

IV–B–3–a–(1). An independent assessment of the containment levels required by these Guidelines for the proposed research, and

IV–B–3–a–(2). An assessment of the facilities, procedures, and practices, and of the training and expertise of recombinant DNA personnel.

IV–B–3–b. Notifying the Principal Investigator (PI) of the results of their review.

IV–B–3–c. Lowering containment levels for certain experiments as specified in Section III–B–2.

IV–B–3–d. Setting containment levels as specified in Section III–B–4–b and III–B–5.

IV–B–3–e. Reviewing periodically recombinant DNA research being conducted at the Institution, to ensure that the requirements of the Guidelines are being fulfilled.

IV–B–3–f. Adopting emergency plans covering accidental spills and personnel contamination resulting from such research.

Note.—Basic elements in developing specific procedures for dealing with major spills of potentially hazardous materials in the laboratory are detailed in the Laboratory Safety Monograph (LSM). Included are information and references on decontamination and emergency plans. NIH and the Centers for Disease Control are available to provide consultation, and direct assistance if necessary, as posted in the LSM. The Guidelines shall cooperate with the State and local public health departments, reporting any significant research-related illness or accident that appears to be a hazard to the public health.

IV–B–3–g. Reporting within 30 days to the appropriate institutional official and to the NIH Office of Recombinant DNA Activities (ORDA) any significant problems with or violations of the Guidelines, and any significant research-related accidents or illnesses, unless the IBC determines that the PI has done so.

IV–B–3–h. The IBC may not authorize initiation of experiments not explicitly covered by the Guidelines until NIH (with the advice of the RAC when required) establishes the containment requirement.

IV–B–3–i. Performing such other functions as may be delegated to the IBC under Section IV–B–1.

IV–B–4. *Biological Safety Officer.* The Institution shall appoint a BSO if it engages in recombinant DNA research at the P3 or P4 containment level. The officer shall be a member of the Institutional Biosafety Committee (IBC), and his or her duties shall include (but need not be limited to):

IV–B–4–a. Ensuring through periodic inspections that laboratory standards are rigorously followed;

IV–B–4–b. Reporting to the IBC and the Institution all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses of which the BSO becomes aware, unless the BSO determines that the Principal Investigator (PI) has done so;

IV–B–4–c. Developing emergency plans for dealing with accidental spills and personnel contamination, and investigating recombinant DNA research laboratory accidents;

IV–B–4–d. Providing advice on laboratory security;

IV–B–4–e. Providing technical advice to the PI and the IBC on research safety procedures.

NOTE: See Laboratory Safety Monograph for additional information on the duties of the BSO.

IV–B–5. *Principal Investigator.* On behalf of the Institution, the PI is responsible for complying fully with the Guidelines in conducting any recombinant DNA research.

IV–B–5–a. *PI—General.* As part of this general responsibility, the PI shall:

IV–B–5–a–(1). Initiate or modify no recombinant DNA research requiring approval by the IBC prior to initiation (see Sections III–A and III–B) until that research, or the proposed modification thereof, has been approved by the IBC and has met all other requirements of the Guidelines;

IV–B–5–a–(2). Determine whether experiments are covered by Section III–C and follow the appropriate procedures;

IV–B–5–a–(3). Report within 30 days to the IBC and NIH (ORDA) all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses;

IV–B–5–a–(4). Report to the IBC and to NIH (ORDA) new information bearing on the Guidelines;

IV–B–5–a–(5). Be adequately trained in good microbiological techniques;

IV–B–5–a–(6). Adhere to IBC–approved emergency plans for dealing with accidental spills and personnel contamination; and

IV–B–5–a–(7). Comply with shipping requirements for recombinant DNA molecules. (See Appendix H for shipping requirements and the Laboratory Safety Monograph for technical recommendations.)

IV–B–5–b. *Submissions by the PI to NIH.* The PI shall:

IV–B–5–b–(1). Submit information to NIH (ORDA) in order to have new host-vector systems certified;

IV–B–5–b–(2). Petition NIH, with notice to the IBC, for exemptions to these Guidelines;

IV–B–5–b–(3). Petition NIH, with concurrence of the IBC, for approval to conduct experiments specified in Section III–A of the Guidelines;

IV–B–5–b–(4). Petition NIH for determination of containment for experiments requiring case-by-case review;

IV–B–5–b–(5). Petition NIH for determination of containment for experiments not covered by the Guidelines.

IV–B–5–c. *Submissions by the PI to the IBC.* The PI shall:

IV–B–5–c–(1). Make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines;

IV–B–5–c–(2). Select appropriate microbiological practices and laboratory techniques to be used in the research;

IV–B–5–c–(3). Submit the initial research protocol if covered under Guidelines Section III–A, III–B, or III–C, (and also subsequent changes—e.g., changes in the source of DNA or host-vector system) to the IBC for review and approval or disapproval; and

IV–B–5–c–(4). Remain in communication with the IBC throughout the conduct of the project.

IV–B–5–d. *PI Responsibilities Prior to Initiating Research.* The PI is responsible for:

IV–B–5–d–(1). Making available to the laboratory staff copies of the protocols that describe the potential biohazards and the precautions to be taken;

IV–B–5–d–(2). Instructing and training staff in the practices and techniques required to ensure safety and in the procedures for dealing with accidents; and

IV–B–5–d–(3). Informing the staff of the reasons and provisions for any precautionary medical practices advised or requested, such as vaccinations or serum collection.

IV–B–5–e. *PI Responsibilities During the Conduct of the Research.* The PI is responsible for:

IV–B–5–e–(1). Supervising the safety performance of the staff to ensure that the required safety practices and techniques are employed;

IV–B–5–e–(2). Investigating and reporting in writing to ORDA, the Biological Safety Officer (where

applicable), and the IBC any significant problems pertaining to the operation and implementation of containment practices and procedures;

IV–B–5–e–(3). Correcting work errors and conditions that may result in the release of recombinant DNA materials;

IV–B–5–e–(4). Ensuring the integrity of the physical containment (e.g., biological safety cabinets) and the biological containment (e.g., purity, and genotypic and phenotypic characteristics).

IV–C. *Responsibilities of NIH.*

IV–C–1. *Director.* The Director, NIH, is responsible for (i) establishing the NIH Guidelines for Research Involving Recombination DNA Molecules, (ii) overseeing their implementation, and (iii) their final interpretation.

The Director has responsibilities under the Guidelines that involve the NIH Office of Recombinant DNA Activities (ORDA) and the Recombinant DNA Advisory Committee (RAC). ORDA's responsibilities under the Guidelines are administrative. Advice from the RAC is primarily scientific and technical. In certain circumstances, there is specific opportunity for public comment, with published response, before final action.

IV–C–1–a. *General Responsibilities of the Director, NIH.* The responsibilities of the Director shall include the following:

IV–C–1–a–(1). Promulgating requirements as necessary to implement the Guidelines;

IV–C–1–a–(2). Establishing and maintaining the RAC to carry out the responsibilities set forth in Section IV–C–2. The RAC's membership is specified in its charter and in Section IV–C–2;

IV–C–1–a–(3). Establishing and maintaining ORDA to carry out the responsibilities defined in Section IV–C–3; and

IV–C–1–a–(4). Maintaining the Federal Interagency Advisory Committee on Recombinant DNA Research established by the Secretary, HEW (now HHS), for advice on the coordination of all Federal programs and activities relating to recombination DNA, including activities of the RAC.

IV–C–1–b. *Specific Responsibilities of the Director, NIH.* In carrying out the responsibilities set forth in this Section, the Director or a designee shall weigh each proposed action, through appropriate analysis and consulation, to determine that it complies with the Guidelines and presents no significant risk to health or the environment.

IV–C–1–b–(1). *Major Actions.* To execute major actions the Director must seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the agenda of the RAC meeting citing the major actions will be published in the **Federal Register** at least 30 days before the meeting, and the Director will also publish the proposed actions in the **Federal Register** for comment at least 30 days before the meeting. In addition, the Director's proposed decision, at his discretion, may be published in the **Federal Register** for 30 days of comment before final action is taken. The Director's final decision, along with response to the comments, will be published in the **Federal Register** and the *Recombinant DNA Technical Bulletin.* The RAC and IBC chairpersons will be notified of this decision.

IV–C–1–b–(1)–(a). Changing containment levels for types of experiments that are specified in the Guidelines when a major action is involved;

IV–C–1–b–(1)–(b). Assigning containment levels for types of experiments that are not explicitly considered in the Guidelines when a major action is involved;

IV–C–1–b–(1)–(c). Promulgating and amending a list of classes of recombinant DNA molecules to be exempt from the Guidelines because they consist entirely of DNA segments from species that exchange DNA by known physiological processes, or otherwise do not present a significant risk to health or the environment;

IV–C–1–b–(1)–(d). Permitting experiments specified by Section III–A of the Guidelines;

IV–C–1–b–(1)–(e). Certifying new host-vector systems, with the exception of minor modifications of already certified systems (the standards and procedures for certification are described in Appendix I–II–a. Minor modifications constitute, for example, those of minimal or no consequence to the properties relevant to containment); and

IV–C–4–4. *Other NIH Components.* Other NIH components shall be responsible for certifying P4 facilities, inspecting them periodically, and inspecting other recombination DNA facilities as deemed necessary.

IV–C–1–b–(1)–(f). Adopting other changes in the Guidelines.

IV–C–1–b–(2). *Lesser Actions.* To execute lesser actions, the Director must seek the advice of the RAC. The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin:*

IV–C–1–b–(2)–(a). Interpreting and determining containment levels, upon request by ORDA;

IV–C–1–b–(2)–(b). Changing containment levels for experiments that are specified in the Guidelines (see Section III);

IV–C–1–b–(2)–(c). Assigning containment levels for experiments not explicitly considered in the Guidelines;

IV–C–1–b–(2)–(d). Revising the "Classification of Etiologic Agents" for the purpose of these Guidelines [1].

IV–C–1–b–(3). *Other Actions.* The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin:*

IV–C–1–b–(3)–(a). Interpreting the Guidelines for experiments to which the Guidelines specifically assign containment levels;

IV–C–1–b–(3)–(b). Setting containment under Section III–B–1–d and Sectin III–B–3–d;

IV–C–1–b–(3)–(c). Approving minor modifications of already certified host-vector systems (the standards and procedures for such modifications are described in Appendix I–II);

IV–C–1–b–(3)–(d). Decertifying already certified host-vector systems;

IV–C–1–b–(3–(e). Adding new entries to the list of molecules toxic for vertebrates (see Appendix F);

IV–C–1–b–(3)–(f). Approving the cloning of toxin genes in host-vector systems other than *E. coli* K–12 (See Appendix F); and

IV–C–1–b–(3)–(g). Determining appropriate containment conditions for

experiments according to case precedents developed under Section IV–C–1–b–(2)–(c).

IV–C–1–b–(4). The Director shall conduct, support, and assist training programs in laboratory safety for Institutional Biosafety Committee members, Biological Safety Officers, Principal Investigators, and laboratory staff.

IV–C–2. *Recombinant DNA Advisory Committee.* The NIH Recombinant DNA Advisory Committee (RAC) is responsible for carrying out specified functions cited below as well as others assigned under its charter or by the Secretary, HHS, the Assistant Secretary for Health, and the Director, NIH.

The members of the committee shall be chosen to provide, collectively, expertise in scientific fields relevant to recoombinant DNA technology and biological safety—e.g., microbiology, molecular biology, virology, genetics, epidemiology, infectious diseases, the biology of enteric organisms, botany, plant pathology, ecology, and tissue culture. At least 20 percent of the members shall be persons knowledgeable in applicable law, standards of professional conduct and practice, public attitudes, the environment, public health, occupational health, or related fields. Representatives from Federal agencies shall serve as nonvoting members. Nominations for the RAS may be submitted to the NIH Office of Recombinant DNA Activities, Bethesda, Md. 20205.

All meetings of the RAC will be announced in the **Federal Register**, including tentative agenda items, 30 days in advance of the meeting, with final agendas (if modified) available at least 72 hours before the meeting. No item defined as a major action under Section IV–C–1–b–(1) may be added to an agenda after it appears in the **Federal Register**.

The RAC shall be responsible for advising the Director, NIH, on the actions listed in Section IV–C–1–b–(1) and IV–C–1–b–(2).

IV–C–3. *The Office of Recombinant DNA Activities.* ORDA shall serve as a focal point for information on recombinant DNA activities and provide advice to all within and outside NIH, including Institutions, Biological Safety Committees, Principal Investigators, Federal agencies, State and local governments, and institutions in the private sector. ORDA shall carry out such other functions as may be delegated to it by the Director, NIH, including those authorities described in Section IV–C–1–b–(3). In addition, ORDA shall be responsible for the following:

IV–C–3–a. Reviewing and approving Institutional Biosafety Committee (IBC) membership;

IV–C–3–b. Publishing in the **Federal Register:**

IV–C–3–b–(1). Announcements of Recombinant DNA Advisory Committee (RAC) meetings and agendas at least 30 days in advance;

NOTE: If the agenda for an RAC meeting is modified, ORDA shall make the revised agenda available to anyone, upon request, at least 72 hours in advance of the meeting.

IV–C–3–b–(2). Proposed major actions of the type falling under Section IV–C–1–b–(1) at least 30 days prior to the RAC meeting at which they will be considered; and

IV–C–3–b–(3). The NIH Director's final decision on recommendations made by the RAC.

IV–C–3–c. Publishing the *Recombinant DNA Technical Bulletin*; and

IV–C–3–d. Serving as executive secretary of the RAC.

IV–C–4. *Other NIH Components.* Other NIH components shall be responsible for certifying P4 facilities, inspecting them periodically, and inspecting other recombinant DNA facilities as deemed necessary.

IV–D. *Compliance.* As a condition for NIH funding of recombinant DNA research, Institutions must ensure that such research conducted at or sponsored by the Institution, irrespective of the source of funding, shall comply with these Guidelines. the policies on noncompliance are as follows:

IV–D–1. All NIH–funded projects involving recombinant DNA techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of financial assistance for such projects and of NIH funds for other recombinant DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–D–2. All non–NIH funded projects involving recombinant DNA techniques conducted at or sponsored by an Institution that receives NIH funds for projects involving such techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of NIH funds for recombinant DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–D–3. Information concerning noncompliance with the Guidelines may be brought forward by any person. It should be delivered to both NIH (ORDA) and the relevant Institution. The Institution, generally through the IBC, shall take appropriate action. The Insitution shall forward a complete report of the incident to ORDA, recommending any further action indicated.

IV–D–4. In cases where NIH proposes to suspend, limit, or terminate financial assistance because of noncompliance with the Guidelines, applicable DHHS and Public Health Service Procedures shall govern.

Note.—Other Federal agencies which have adopted the NIH Guidelines may have the authority to terminate funding to their grantees should these grantees not comply with the NIH Guidelines.

IV–D–5. *Voluntary Compliance.* Any individual, corporation, or institution that is not otherwise covered by the Guidelines is encouraged to conduct recombinant DNA research activities in accordance with the Guidelines, through the procedures set forth in Part VI.

V. Footnotes and References of Sections I–IV

1. The original reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Department of Health, Education, and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may revise the classification for the purposes of these Guidelines (see Section IV–C–1–b–(2)–(d)). The revised list of organisms in each class is reprinted in Appendix B to these Guidelines.

2. In Part III of the Guidelines, there are a number of places where judgments are to be made. In all these cases the principal investigator is to make the judgment on these matters as part of his responsibility to "make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines" (Section IV–B–5–c–(1)). In the cases falling under Sections III–A, –B or –C, this judgment is to be reviewed and approved by the Institutional Biosafety Committee as part of its responsibility to make "an independent assessment of the containment levels required by these Guidelines for the proposed research" (Section IV–B–3–a–(1)). If the IBC wishes, any specific cases may be referred to the NIH Office of Recombinant DNA Activities as part of ORDA's functions to "provide advice to all within and outside NIH" (Section IV–C–3), and ORDA may request advice from the Recombinant DNA Advisory Committee as part of the RAC's responsibility for "interpreting and determining containment levels upon request by ORDA" (Section IV–C–1–b–(2)–(a)).

3. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health, Education, and Welfare Publication No. CDC 75–8118.

4. *Classification of Etiologic Agents on the Basis of Hazard.* (4th Edition, July 1974). U.S. Department of Health, Education, and Welfare. Public Health Service. Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

5. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Dpeartment of Health, Education, and Welfare Publication No. (NIH) 75–790.

6. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health. U.S. Government Printing Office, Stock No. 1740–00383.

7. *Biohazards in Biological Research* (1973). A. Hellman, M. N. Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

8. *Handbook of Laboratory Safety* (9171). Second Edition. N. V. Steere (ed.). The Chemical Rubber Co., Cleveland.

9. Bodily, J. L. (1970). *General Administration of the Laboratory,* H. L. Bodily, E. L. Updyke, and J. O. Mason (eds.), Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections. American Public Health Association, New York, pp. 11–28.

10. Darlow, H. M. (1969). *Safety in the Microbiological Laboratory.* In J. R. Norris and D. W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc. New York, pp. 169–204.

11. *The Prevention of Laboratory Acquired Infection* (1974). C. H. Collins, E. G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

12. Chatigny, M. A. (1961). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures.* In W. W. Umbreit (ed.). Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

13. *Design Criteria for Viral Oncology Research Facilities* (1975). U.S. Department of Health, Education and Welfare, Public Health Service, National Institutes of Health, DHEW Publication No. (NIH) 75–891.

14. Kuehne, R. W. (1973). *Biological Containment Facility for Studying Infectious Disease.* Appl. Microbiol. 26–239–243.

15. Runkle, R. S., and G. B. Phillips (1969). *Microbial Containment Control Facilities.* Van Nostrand Reinhold, New York.

16. Chatigny, M. A., and D. I. Clinger (1969). *Contamination Control in Aerobiology.* In R. L. Dimmick and A. B. Akers (eds.). An Introduction to Experimental Aerobiology. John Wiley & Sons, New York, pp. 194–263.

17. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R. E. F. Matthews, Ed. Intervirology 12 (129–296) 1979.

18. A USDA permit, required for import and interstate transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hayttsville, MD 20782.

19. i.e., the total of all genomes within a Family shall not exceed two-thirds of the genome.

20. All activities, including storage of variola and whitepox are restricted to the single national facility (World Health Organization (WHO) Collaborating Center for Smallpox Research, Centers for Disease Control, in Atlanta).

VI. Voluntary Compliance

VI–A. *Basic Policy.* Individuals, corporations, and institutions not otherwise covered by the Guidelines are encouraged to do so by following the standards and procedures set forth in Parts I–IV of the Guidelines. In order to simplify discussion, references hereafter to "institutions" are intended to encompass corporations, and individuals who have no organizational affiliation. For purposes of complying with the Guidelines, an individual intending to carry out research involving recombinant DNA is encouraged to affiliate with an institution that has an Institutional Biosafety Committee approved under the Guidelines.

Since commercial organizations have special concerns, such as protection of proprietary data, some modifications and explanations of the procedures in Parts I–IV are provided below, in order to address these concerns.

VI–B. *IBC Approval.* The NIH Office of Recombinant DNA Activities (ORDA) will review the membership of an institution's Institutional Biosafety Committee (IBC) and, where it finds the IBC meets the requirements set forth in Section IV–B–2, will give its approval to the IBC membership.

It should be emphasized that employment of an IBC member solely for purposes of membership on the IBC does not itself make the member an institutionally affiliated member for purposes of Section IV–B–2–a.

Except for the unaffiliated members, a member of an IBC for an institution not otherwise covered by the Guidelines may participate in the review and approval of a project in which the member has a direct financial interest, so long as the member has not been and does not expect to be engaged in the project. Section IV–B–2–d is modified to that extent for purposes of these institutions.

VI–C. *Certification of Host-Vector Systems.* A host-vector system may be proposed for certification by the Director, NIH, in accordance with the procedures set forth in Appendix I–II–A.

In order to ensure protection for proprietary data, any public notice regarding a host-vector system which is designated by the institution as proprietary under Section VI–E–1 will be issued only after consultation with the institution as to the content of the notice.

VI–D. *Requests for Exemptions and Approvals.* Requests for exemptions or other approvals required by the Guidelines should be requested by following the procedures set forth in the appropriate sections in Parts I–IV of the Guidelines.

In order to ensure protection for proprietary data, any public notice regarding a request for an exemption or other approval which is designated by the institution as proprietary under Section VI–E–1 will be issued only after consultation with the institution as to the content of the notice.

VI–E. *Protection of Proprietary Data.* In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, "trade secrets and commercial and financial information obtained from a person and privileged or confidential." 18 U.S.C. 1905, in turn makes it a crime for an officer or employee of the United States or any Federal department or agency to publish, divulge, disclose, or make known "in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, [or processes * * * of any person, firm, partnership, corporation, or association." This provision applies to all employees of the Federal Government, including special Government employees. Members of the Recombinant DNA Advisory Committee are "special Government employees."

VI–E–1. In submitting information to NIH for purposes of complying voluntarily with the Guidelines, and institution may designate those items of information which the institution believes constitute trade secrets or privileged or confidential commercial or financial information.

VI–E–2. If NIH receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be released.

VI–E–3. If the NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will be advised; and the actual release will not be made until the expiration of 15 days after the institution is so advised, except to the extent that earlier release, in the judgment of the Director, NIH, is necessary to protect against an

imminent hazard to the public or the environment.

VI–E–4. *Presubmission Review.*

VI–E–4–a. Any institution not otherwise covered by the Guidelines, which is considering submission of data information voluntarily to NIH, may request presubmission review of the records involved to determine whether, if the records are submitted, NIH will or will not make part or all of the records available upon request under the Freedom of Information Act.

VI–E–4–b. A request for presubmission review should be submitted to ORDA, along with the records involved. These records must be clearly marked as being the property of the institution, on loan to NIH solely for the purpose of making a determination under the Freedom of Information Act. ORDA will then seek a determination from the HHS Freedom of Information Officer, the responsible official under HHS regulations (45 C.F.R. Part 5), as to whether the records involved (or some portion) are or are not available to members of the public under the Freedom of Information Act. Pending such a determination, the records will be kept separate from ORDA files, will be considered records of the institution and not ORDA, and will not be received as part of ORDA files. No copies will be made of the records.

VI–E–4–c. ORDA will inform the institution of the HHS Freedom of Information Officer's determination and follow the institution's instructions as to whether some or all of the records involved are to be returned to the institution or to become a part of ORDA files. If the institution instructs ORDA to return the records, no copies or summaries of the records will be made or retained by HHS, NIH, or ORDA.

VI–E–4–d. The HHS Freedom of Information Officer's determination will represent that official's judgment, as of the time of the determination, as to whether the records involved (or some portion) would be exempt.

Appendix A.—Exemptions Under III–D–4

Section III–D–4 states that exempt from these Guidelines are "certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment. (See Section IV–C–1–b–(1)–(c).) Certain classes are exempt as a publication of these Revised Guidelines. The list is in Appendix A."

Under Section III–D–4 of these Guidelines are recombinant DNA molecules that are (1) composed entirely of DNA segments from one or more of the organisms within a sublist and (2) to be propagated in any of the organisms within a sublist. (Classification of *Bergey's Manual of Determinative Bacteriology*, eighth edition. R. E. Buchanan and N. E. Gibbons, editors. Williams and Wilkins Company: Baltimore, 1974.)

Sublist A

1. Genus *Escherichia*
2. Genus *Shigella*
3. Genus *Salmonella* (including *Arizona*)
4. Genus *Enterobacter*
5. Genus *Citrobacter* (including *Levinea*)
6. Genus *Klebsiella*
7. Genus *Erwinia*
8. *Pseudomonas aeruginosa, Pseudomonas putida* and *Pseudomonas fluorescens*
9. *Serratia marcescens*
10. *Yersinia enterocolitica*

Sublist B

1. *Bacillus subtilis*
2. *Bacillus licheniformis*
3. *Bacillus pumilus*
4. *Bacillus globigii*
5. *Bacillus niger*
6. *Bacillus nato*
7. *Bacillus amyloiquefaciens*
8. *Bacillus aterrimus*

Sublist C

1. *Streptomyces aureofaciens*
2. *Streptomyces rimosus*
3. *Streptomyces coelicolor*

Sublist D

1. *Streptomyces griseus*
2. *Streptomyces cyaneus*
3. *Streptomyces venezuelae*

Sublist E

One way transfer of *Streptococcus mutans* or *Streptococcus lactis* DNA into *Streptococcus sanguis*

Sublist F

1. *Streptococcus sanguis*
2. *Streptococcus pneumoniae*
3. *Streptococcus faecalis*
4. *Streptococcus pyogenes*

Appendix B.—Classification of Microoganisms on the Basis of Hazard

Appendix B–I. *Classification of Etiologic Agents.* [The original reference for this classification was the publication *"Classification of Etiological Agents on the Basis of Hazard,"* 4th edition, July 1974, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. For the pusposes of these Guidelines, this list has been revised by the NIH.]

Appendix B–I–A. *Class 1 Agents.* All bacterial, parasitic, fungal, viral, rickettsial, and chlamydial agents not included in higher classes.

Appendix B–I–B. *Class 2 Agents*

Appendix B–I–B–1. *Bacterial Agents*

Actinobacillus—all species except *A. mallei*, which is in Class 3
Aeromonas hydrophila
Arizona hinshawii—all serotypes
Bacillus anthracis
Bordetella—all species
Borrelia recurrentis, B. vincenti
Campylobacter fetus
Campylobacter jejuni,
Clostridium botulinum,
Cl. chauvoei, Cl. haemolyticum,
Cl. histolyticum, cl. novyi,
Cl. septicum, Cl. tetani
Corynebacterium diphtheriae
C. equi, C. haemolyticum,
C. pseudotuberculosis,
C. pyogenes, C. renale
Diplococcus (Streptococcus) pneumoniae
Edwardsiella tarda
Erysipelothrix insidiosa
Escherichia coli—all enteropathogenic, enterotoxigenic, enteroinvasive and strains bearing Kl antigen
Haemophilus ducreyi, H. influenzae
herellae vaginicola
Klebsiella—all species and all serotypes
Leptospira interrogans—all serotypes
Listeria—all species
Mima polymorpha
Moraxella—all species
Mycobacteria—all species except those listed in Class 3
Mycoplasma—all species except *Mycoplasma mycoides* and *Mycoplasma agalactiae*, which are in Class 5
Neisseria gonorrhoeae, N. meningitidis
Pasterurella—all species except those listed in Class 3
Salmonella—all species and al serotypes
Shigella—all species and all serotypes
Sphaerophorus necrophorus
Staphylococcus aureus
Streptobacillus moniliformis
Stretococcus pyogenes
Treponema carateum, T. pallidum, and *T. pertenue*
Vibrio fetus, V. comma, including biotype *El Tor* and *V. parahemolyticus*
Yersinia enterocolitica

Appendix B–I–B–2. *Fungal Agents*

Actinomycetes (including *Nocardia* species and *Actinomyces* species and *Arachnia propionica)* [2]
Blastomyces dermatitidis
Cryptococcus neoformans
Paracoccidioides braziliensis

Appendix B–I–B–3. *Parasitic Agents*

Endamoeba histolytica
Leishmania sp.
Naegleria gruberi
Toxoplasma gondii
Toxocara canis
Trichinella spiralis
Trypanosoma cruzi

Appendix B–I–B–4. *Viral, Rickettsial, and Chlamydial Agents*

Adenoviruses—human—all types
Cache Valley virus
Coxsackie A and *B viruses*
Cytomegaloviruses
Echoviruses—all types
Encephalomyocarditis virus (EMC)
Flanders virus
Hart Park virus
Hepatitis—associated antigen material
Herpes viruses—except *Herpesvirus simiae (Monkey B virus)* which is in Class 4
Corona viruses

Influenza viruses—all types except A/PR8/34, which is in Class 1
Langat virus
Lymphogranuloma venereum agent
Measles virus
Mumps virus
Parainfluenza virus—all types except Parainfluenza virus 3, SF4 strain, which is in Class 1
Polioviruses—all types, wild and attenuated
Poxviruses—all types except *Alastrim, Smallpox,* and *Whitepox,* which are Class 5 and *Monkey pox,* which depending on experiments, is in Class 3 or Class 4
Rabies virus—all strains except *Rabies street* virus, which should be classified in Class 3
Reoviruses—all types
Respiratory syncytial virus
Rhinoviruses—all types
Rubella virus
Simian viruses—all types except *Herpesvirus simiae (Monkey B virus)* and *Marburg virus,* which are in Class 4
Sindbis virus
Tensaw virus
Turlock virus
Vaccinia virus
Varicella virus
Vesicular stomatitis virus [3]
Vole rickettsia
Yellow fever virus, 17D vaccine strain

Appendix B–I–C. *Class 3 Agents*
Appendix B–I–C–1. *Bacterial Agents*
Actinobacillus mallei [3]
Bartonella—all species
Brucella—all species
Francisella tularensis
Mycobacterium avium, M. bovis, M. tuberculosis
Pasteurella multocide type *B* ("buffalo" and other foreign virulent strains [3]
Pseudomonas pseudomallei [3]
Yersinia pestis
Appendix B–I–C–2. *Fungal Agents*
Coccidioides immitis
Histoplasma capsulatum
Histoplasma capsulatum var. *duboisii*
Appendix B–I–C–3. *Parasitic Agents*
Schistosoma mansoni
Appendix B–I–C–4. *Viral, Rickettsial, and Chlamydial Agents*
Monkey pox, when use *in vitro* [4]
Arboviruses—all strains except those in Class 2 and 4 *(Arboviruses* indigenous to the United States are in Class 3, except those listed in Class 2. *West Nile* and *Semliki Forest* viruses may be classified up or down, depending on the conditions of use and geographical location of the laboratory.)
Dengue virus, when used for transmission or animal inoculation experiments
Lymphocytic choriomeningitis virus (LCM)
Psittacosis-Ornithosis-Trachoma group of agents
Rabies street virus
Rickettsia—all species except *Vole rickettsia* when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used *in vitro*

Appendix B–I–D. *Class 4 Agents*
Appendix B–I–D–1. *Bacterial Agents.* None
Appendix B–I–D–2. *Fungal Agents.* None
Appendix B–I–D–3. *Parasitic Agents.* None
Appendix B–I–D–4. *Viral, Rickettsial, and Chlamydial Agents*
Monkey pox, when used for transmission or animal inoculation experiments [4]
Hemorrhagic fever agents, including *Crimean hemorrhagic fever, (Congo), Junin,* and *Machupo* viruses, and others as yet undefined
Herpesvirus simiae (Monkey B virus)
Lassa virus
Marburg virus
Tick-borne encephalitis virus complex, including *Russian spring-summer encephalitis, Kyasanur forest disease, Omsk hemorrhagic fever,* and *Central European encephalitis viruses*
Venezuelan equine encephalitis virus, epidemic strains, when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used for transmission or animal inoculation experiments

Appendix B–II. *Classification of Oncogenic Viruses on the Basis of Potential Hazard [5]*
Appendix B–II–A. *Low-Risk Oncogenic Viruses.* These viruses should be treated as Class 2 agents
Rous Sarcoma
SV–40
CELO
Ad7–SV40
Polyoma
Bovine papilloma
Rat mammary tmor
Avian Leukosis
Murine Leukemia
Murine Sarcoma
Mouse mammary tumor
Rat Leukemia
Hamster Leukemia
Bovine Leukemia
Dog Sarcoma
Mason-Pfizer Monkey Virus
Marek's
Guinea Pig Herpes
Lucke (Frog)
Adenovirus
Shope Fibroma
Shope Papilloma
Appendix B–II–B. *Moderate-Risk Oncogenic Viruses.* These viruses should be treated as Class 3 agents
Ad2–SV40
FeLV
HV Saimiri
EBV
SSV–1
GaLV
HV ateles
Yaba
FeSV

Appendix B–III. *Class 5 Agents*
Appendix B–III–A. *Animal Disease Organisms Which Are Forbidden Entry into the United States by Law*
Foot and mouth disease virus
Appendix B–III–B. *Animal Disease Organisms and Vectors Which Are Forbidden Entry into the United States by USDA Policy*
African horse sickness virus
African swine fever virus
Besnoitia besnoiti
Borna disease virus
Bovine infectious petechial fever
Camel pox virus
Ephemeral fever virus
Fowl plague virus
Goat pow virus
Hog cholera virus
Louping ill virus
Lumpy skin disease virus
Nairobi sheep disease virus
Newcastle disease virus (Asiatic strains)
Mycoplasma mycoides (contagious bovine pleuropneumonia)
Mycoplasma agalactiae (contagious agalactia of sheep)
Rickettsia ruminatium (heart water)
Rift valley fever virus
Rhinderpest virus
Sheep pox virus
Swine vesicular disease virus
Teschen disease virus
Trypanosoma vivax (Nagana)
Trypanosoma evansi
Theileria parva (East Coast fever)
Theileria annulata
Theileria lawrencei
Theileria bovis
Theileria hirci
Vesicular exanthema virus
Wesselsbron disease virus
Zyonema

Appendix B–III–C. *Organisms Which May Not Be Studied in the United States Except At Specified Facilities*
Small pox [4]
Alastrim [4]
White pox [4]

Appendix B–IV. *Footnotes and References of Appendix B*

1. The original reference for this classification was the publication *Classification of Etiologic Agents on the Basis of Hazard,* 4th edition, July 1974, U.S. Departmet of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. For the purposes of these Guidelines, this list has been revised by the NIH.

2. Since the publication of the classification in 1974 [1], the *Actinomycetes* have been reclassified as bacterial rather than fungal agents.

3. A USDA permit, required for import and interstate transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

4. All activities, including storage of variola and whitepox are restricted to the single national facility [World Health Organization (WHO) Collaborating Center for Smallpox Research, Center for Disease Control, in Atlanta].

5. *National Cancer Institute Safety Standards for Research Ivolving Oncogenic Viruses* (October 1974). U.S. Department of Health, Education, and Welfare Publication No. (NIH) 75–790.

6. U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

Appendix C.—Exemptions Under III–D–5

Section III–D–5 states that exempt from these Guidelines are "Other classes of

recombinant DNA molecules, if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the envrionment. (See Section IV–C–1–b–(1)–(c).) Certain classes are exempt as of publication of these Resived Guidelines."

The following classes of experiments are exempt under Section III–D–5 of the Guidelines:

Appendix C–I. *Recombinant DNAs in Tissue Culture.* Recombinant DNA molecules derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus), that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

Exceptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents.

Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates. (See Appendix F.)

Appendix C–II. *Experiments Involving E. coli K–12 Host-Vector Systems.* Experiments which use *E. coli* K–12 host-vector systems, with the exception of those experiments listed below, are exempt from these Guidelines provided that (a) the *E. coli* host shall not contain conjugation proficient plasmids or generalized transducing phages, and (b) lambda or lambdoid or Ff bacteriophages or nonconjugaive plasmids [2] shall be used as vectors. However, experiments involving the insertion into *E. coli* K–12 of DNA from prokaryotes that exchange genetic information [3] with *E. coli* may be performed with any *E. coli* K–12 vector (e.g., conjugative plasmid). When a nonconjugative vector is used, the *E. coli* K–12 host may contain conjugation-proficient plasmids ether autonomous or integrated, or generalized transducing phages.

For these exempt experiments, Pl physical containment conditions are recommended.

Exceptions. Experiments described in Section III–A which require a specific RAC review and NIH approval before initiation of the experiment.

Experiments involving DNA from class 3, 4, or 5 organisms [1] or from cells known to be infected with these agents may be conducted under containment conditions specified in Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval. (See Section III–B–5.)

Experiments involving the deliberate cloning of genes coding for the the biosynthesis of molecules toxic for vertebrates. (See Appendix F.)

Appendix C–III. *Experiments Involving Saccharomyces cerevisiae Host-Vector Systems.* Experiments which use *Saccharomyces cerevisiae* host-vector systems, with the exception of experiments listed below, are exempt from these Guidelines provided that laboratory strains are used.

For these exempt experiments, Pl physical containment conditions are recommended.

Exemptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving Class 3, 4 or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified in Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval. (See Section III–B–5.)

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. (See Appendix F.)

Appendix C–IV. *Experiments Involving Bacillus subtilis Host-Vector Systems.* Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA, with the exception of those experiments listed below. Indigenous *Bacillus* plasmids and phages, whose host-range does not include *Bacillus cereus* or *Bacillus anthracis*, may be used as vectors.

For these exempt experiments Pl physical contaiment conditions are recommended.

Exceptions. Experiments described in Section III–A which require specific RAC review and approval before initiation of the experiment.

Experiments involving Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified by Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval. (See Section III–B–5.)

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. (See Appendix F.)

Appendix C–V. *Footnotes and References of Appendix C*

1. The original reference to organisms as Class 1, 2, 3, 4, or 5 refers to the calssification in the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Department of Health, Education, and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may revise the classification for the purposes of these Guidelines (see Section IV–C–1–b–(2)–(d)). The revised list of organisms in each class is reprinted in Appendix B to these Guidelines.

2.subset of non-conjugative plasmid vectors are also poorly mobilizable (e.g., pBR322, pBR313). Where practical, these vectors should be employed.

3. Defined as observable under optimal laboratory conditions by transformation, transduction, phage infection, and/or conjugation with transfer of phage, plasmid, and/or chromosomal genetic information. Note that this definition of exchange may be less stringent than that applied to exempt organisms unser Section III–D–4.

Apendix D—Actions Taken Under the guidelines

As noted in the subsections of Section IV–C–1–b–(1), the Director, NIH, may take certain actions with regard to the Guidelines after the issues have been considered by the RAC.

Some of the actions taken to date include the following:

Appendix D–I. Permission is granted to clone Foot-and-Mouth disease virus in the EK1 host-vector system consisting of *E. coli* K–12 and the vector pBR322, all work to be done at the Plum Island Animal disease Center.

Appendix D–II. Certain specified clones derived from segments of the Foot-and-Mouth disease Virus may be transferred from Plum Island Animal disease Center to the facilities of Genentech, Inc., of South San Francisco, California. Further development of the clones at Genetech has been approved under P1 + EK1 conditions.

Appendix D–III. The Rd strain of *hemophilus influenzae* can be used as a host for the propagtin of the cloned Tn 10 tet R gene derived from *E. coli* K–12 employing the non-conjugative *Haemophilus* plasmid, pRSF0885, under P1 conditions.

Appendix D–IV. Permission is granted to clone certain subgenomic segments of Foot-and-Mouth Disease Virus in HV1 *Bacillus subtilis* and *Saccharomyces cerevisiae* host-vector systems under P1 conditions at Genetech, Inc., South San Francisco, California.

Appendix D–V. Permission is granted to Dr. Ronald Davis of Stanford University to field test corn plants modified by recombinant DNA techniques under specified containment conditions.

Appendix D–VI. Permission is granted to clone in *E. coli* K–12, under P1 physical containment conditions, subgenomic segments of Rift Valley Fever Virus subject to conditions which have been set forth by the RAC.

Appendix D–VII. Attenuated laboratory strains of *Salmonella typhimurium* may be used under P1 physical containment conditions to screen for the *Saccharomyces cerevisiae* pseudouridine synthetase gene. The plasmid YEp13 will be employed as the vector.

Appendix D–VIII. Permission is granted to transfer certain clones of subgenomic segments of Foot-and-Mouth Disease Virus from Plum Island Animal Disease Center to the laboratories of Molecular Genetics, Inc., MInnetonka, Minnesota, and to work with these clones under P1 containment conditions. Approval is contingent upon review of data on infectivity testing of the clones by a working group of the RAC.

Appendix E—Certified Host-Vector Systems

While many experiments using *E. coli* K-12, *Saccharomyces cerevisiae* and *Bacillus subtilis* are currently exempt from the Guidelines under Exemption III-D-5, some derivatives of these host-vector systems were previously classified as HV1 or HV2. A listing of those systems follows.

HV1. The following plasmids are accepted as the vector components of certified *B.*

subtilis HV1 systems: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124. *B. subtilis* strains RUB 331 and BGSC 1S53 have been certified as the host component of HV1 systems based on these plasmids.

HV2. The asporogenic mutant derivative of *Bacillus subtilis,* ASB 298 with the following plasmids as the vector component: pUB110, pC194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124.

HV2—The following sterile strains of *Saccharomyces cerevisiae,* all of which have the ste-VC9 mutation, SHY1, SHY2 SHY3, and SHY4. The following plasmids are certified for use: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7,YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, and YIp33.

EK2 Plasmid Systems. The *E. coli* K-12 strain chi-1776. The following plasmids are certified for use: pSC101, pMB9, pBR313, pBR322, pDH24, pBR327, pGL101, pHB1. The following *E. coli/S. cerevisiae* hybrid plasmids are certified as EK2 vectors when use in *E. coli* chi-1776 or in the sterile yeast strains, SHY1, SHY2, SHY3, and SHY4: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31 YIp32, YIp33.

EK2 Bacteriophage Systems. The following are certified EK2 systems based on bacteriophage lambda:

Vector	Host
λgt*WES.* B'	DP50*supF*
λgt*WES.* B*	DP50*supF*
λgtZJvir. B'	*E. coli* K-12
λgtALO. B	DP50*supF*
Charon 3A	DP50 or DP50*supF*
Charon 4A	DP50 or DP50*supF*
Charon 16A	DP50 or DP50*supF*
Charon 21A	DP50*supF*
Charon 23A	DP50 or DP50*supF*
Charon 24A	DP50 or DP50*supF.*

E. coli K-12 strains chi-2447 and chi-2281 are certified for use with lambda vectors that are certified for use with strain DP50 or DP50supF provided that the su– strain not be used as a propagation host.

E. coli K-12 strains chi-1984, chi-2705, chi-2001, and chi-2363 are certified for use with lambda vectors that are certified for use with strain DP50 or SP50supF provided that the su– strains not be used as propagation hosts.

Additional certified host-vector systems

HV1—The following specified strains of *Neurospora crassa* which have been modified to prevent aerial dispersion:

Inl (inositolless) strains 37102, 37401, 46316, 64001, and 89601.

Csp-1 strain UCLA 37 and csp-2 strains FS 590, UCLA101 (these are conidial separation mutants).

Eas strain UCLA191 (an "easily wettable" mutant).

HV1—The following *Streptomyces* species: *Streptomyces coelicolor, S. lividans, S. parvulus,* and *S. griseus.* The following are accepted as vector components of certified *Streptomyces* HV1 systems: *Streptomyces* plasmids SCP2, SLP1.2, pIJ101, actinophage phi C31, and their derivatives.

Hv1—*Pseudomonas putida* strain KT2440 with plasmid vectors pKT262, pKT263, and PKT264.

APPENDIX F—CONTAINMENT CONDITIONS FOR CLONING OF GENES CODING FOR THE BIOSYNTHESIS OF MOLECULES TOXIC FOR VERTEBRATES

Appendix F–I. *General Information.* Appendix F specifies the containment to be used for the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. Cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin) is prohibited. No specific restrictions shall apply to the cloning of genes if the protein specified by the gene has an LD_{50} of 100 micrograms or more per kilogram of body weight. Experiments involving genes coding for toxic molecules with an LD_{50} of 100 micrograms or less per kilogram body weight shall be registered with ORDA prior to initiating the experiments. A list of toxic molecules classified as to LD_{50} is available from ORDA. Testing procedures for determining toxicity of toxic molecules not on the list are available from ORDA. The results of such tests shall be forwarded to ORDA, which will consult with an *ad hoc* working group on toxic molecules prior to inclusion of the molecule on the list. (See Section IV–C–1–b–(2)–(e).)

Appendix F–II. *Containment Conditions for Cloning of Toxic Molecule Genes in E. coli K–12.*

Appendix F–II–A. Cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} in the range of 100 nanograms to 1000 nanograms per kilogram body weight (e.g., abrin, *Clostridium perfringens* epsilon toxin) may proceed under P2+EK2 or P3+EK1 containment conditions.

Appendix F–II–B. Coloning of genes for the biosynthesis of molecules toxic for vertebrates with an LD_{50} in the range of 1 microgram to 100 micrograms per kilogram body weight may proceed under p1+EK1 containment conditions (e.g., *Staphylococcus aureus* alpha toxin, *Staphylococcus aureus* beta toxin, ricin, *Pseudomonas aeruginosa* exotoxin A, *Bordatella pertussis* toxin, the lethal factor of *Bacillus anthracis,* the *Pasteurella pestis* murine toxins, the oxgen-labile hemolysins such as streptolysin O, and certain neurotoxins present in snake venoms and other venoms).

Appendix F–II–C. Some enterotoxins are substantially more toxic when administered enterally than parenterally. The following enterotoxins shall be subject to P1+EK1 containment conditions: cholera toxin, the heat liable toxins of *E. coli, Klebsiella,* and other related proteins that may be identified by neutralization with an antiserum monospecific for cholera toxin, and the heat stable toxins of *E. coli* and of *Yersinia enterocolitica.*

Appendix F–III. *Containment Conditions for Cloning of Toxic Molecule Genes in Organisms Other than E. coli K–12.* Requests involving the cloning of genes coding for molecules toxic for vertebrates in host-vector systems other than *E. coli* K–12 will be evaluated by ORDA, which will consult with the *ad hoc* working group on toxic molecules. (See Section IV–C–1–b–(3)–(f).)

Appendix F–IV. *Specific Approvals.*

Appendix F–IV–A. Permission is granted to clone the Exotoxin A gene of *Pseudomonas aeruginosa* under P1 conditions in *Pseudomonas aeruginosa.*

Appendix F–IV–B. The pyrogenic endotoxin type A (Tox A) gene of *Staphylococcus aureus* may be cloned in an HV2 *Bacillus subtilis* host-vector system under P3 containment conditions.

Appendix F–IV–C. Permission is granted to clone in *E. coli* K–12, in high containment Building 550 at the Frederick Cancer Research Facility, restriction fragments of *Corynephage Beta* carrying the structural gene for diphtheria toxin. Laboratory practices and containment equipment are to be specified by the IBC.

Appendix F–IV–D. The genes coding for the *Staphylococcus aureus* determinants, A, B, and F, which may be implicated in toxic shock syndrome, may be cloned in *E. coli* K–12 under P2+EK1 conditions. The *Staphylococcus aureus* strain used as the donor is to be alpha toxin minus. It is suggested that, if possible, the donor *Staphylococcus aureus* strain should lack other toxins with LD_{50}s in the range of one microgram per kilogram body weight, such as the exfoliative toxin.

Appendix F–IV–E. Fragments F–1 and F–2 of the diphtheria toxin gene (tox) may be cloned in *E. coli* K–12 under P1+EK1 containment conditions. Fragment F–1 and fragment F–2 both contain (i) some or all of the transcriptional control elements of *tox,* (ii) the signal peptide, and (iii) fragment A (the center responsible for ADP-ribosylation of elongation factor 2).

Appendix F–IV–F. The gene(s) coding for a toxin (designated LT-like) isolated from *E. coli* which is similar to the *E. coli* heat labile enterotoxin (LT) with respect to its activities and mode of action, but is not neutralized by antibodies against cholera enterotoxin or against LT from human or porcine *E. coli* strains and sequences homologous to the *E. coli* LT-like toxin gene may be cloned under P1+Ek1 conditions.

APPENDIX G—Physical Containment

Appendix G–I. *Standard Practices and Training.* The first principle of containment is a strict adherence to good microbiological practices [1–10]. Consequently, all personnel directly or indirectly involved in experiments on recombinant DNAs must receive adequate instruction. (See Sections IV–B–I–e and IV–B–5–d.) This shall, as a minimum, include instructions in aseptic techniques and in the biology of the organisms used in the experiments, so that the potential biohazards can be understood and appreciated.

Any research group working with agents with a known or potential biohazard shall have an emergency plan which describes the procedures to be followed if an accident contaminates personnel or the environment. The principal investigator must ensure that everyone in the laboratory is familiar with both the potential hazards of the work and the emergency plan. (See Sections IV–B–3–d and IV–B–5–e.) If a research group is working with a known pathogen where there is an effective vaccine it should be made available

to all workers. Where serological monitoring is clearly appropriate it shall be provided. (See Section IV–B–1–f.)

The "Laboratory Safety Monograph", available from ORDA, describes practices, equipment, and facilities in detail.

Appendix G–II. *Physical Containment Levels.* The objective of physical containment is to confine organisms containing recombinant DNA molecules, and thus to reduce the potential for exposure of the laboratory worker, persons outside of the laboratory, and the environment to organisms containing recombinant DNA molecules. Physical containment is achieved through the use of laboratory practices, containment equipment, and special laboratory design. Emphasis is placed on primary means of physical containment which are provided by laboratory practices and containment equipment. Special laboratory design provides a secondary means of protection against the accidental release of organisms outside the laboratory or to the environment. Special laboratory design is used primarily in facilities in which experiments of moderate to high potential hazards are performed.

Combinations of laboratory practices, containment equipment, and special laboratory design can be made to achieve different levels of physical containment. Four levels of physical containment, which are designated as P1, P2, P3, and P4, are described. It should be emphasized that the descriptions and assignments of physical containment detailed below are based on existing approaches to containment of pathogenic organisms. For example, the "Classification of Etiologic Agents on the Basis of Hazard," [2] prepared by the Centers for Disease Control, describes four general levels which roughly correspond to our descriptions for P1, P2, P3, and P4; and the National Cancer Institute describes three levels for research on oncogenic viruses which roughly correspond to our P2, P3, and P4 levels. [3]

It is recognized that several different combinations of laboratory practices, containment equipment, and special laboratory design may be appropriate for containment of specific research activities. The Guidelines, therefore, allow alternative selections of primary contaiment equipment within facilities that have been designed to provide P3 and P4 levels of physical containment. The selection of alternative methods of primary containment is dependent, however, on the level of biological containment provided by the host-vector system used in the experiment. Consideration will also be given by the Director, NIH, with the advice of the Recombinant DNA Advisory Committee to other combinations which achieve an equivalent level of containment. (See Section IV–C–1–b–(2)–(b).)

Appendix G–II–A. *P1 Level.*

Appendix G–II–A–1. *Laboratory Practices.*

Appendix G–II–A–1–a. Laboratory doors shall be kept closed while experiments are in progress.

Appendix G–II–A–1–b. Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

Appendix G–II–A–1–c. All biological wastes shall be decontaminated before disposal. Other contaminated materials, such as glassware, animal cages, and laboratory equipment, shall be decontaminated before washing, reuse, or disposal.

Appendix G–II–A–1–d. Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

Appendix G–II–A–1–e. Eating, drinking, smoking, and storage of foods are not permitted in the laboratory area in which recombinant DNA materials are handled.

Appendix G–II–A–1–f. Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

Appendix G–II–A–1–g. Care shall be taken in the conduct of all procedures to minimize the creation of aerosols.

Appendix G–II–A–1–h. Contaminated materials that are to be decontaminated at a site away from the laboratory shall be placed in a durable leakproof container, which is closed before removal from the laboratory.

Appendix G–II–A–1–i. An insect and rodent control program shall be instituted.

Appendix G–II–A–1–j. The use of laboratory gowns, coats, or uniforms is discretionary with the laboratory supervisor.

Appendix G–II–A–1–k. Use of hypodermic needle and syringe shall be avoided when alternative methods are available.

Appendix G–II–A–1–l. The laboratory shall be kept neat and clean.

Appendix G–II–A–2. *Containment Equipment.* Special containment equipment is not required at the P1 level.

Appendix G–II–A–3. *Special Laboratory Design.* Special laboratory design is not required at the P1 level.

Appendix G–II–B. *P2 Level.*

Appendix G–II–B–1. *Laboratory Practices.*

Appendix G–II–B–1–a. Laboratory doors shall be kept closed while experiments are in progress.

Appendix G–II–B–1–b. Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

Appendix G–II–B–1–c. All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a means demonstrated to be effective before washing, reuse, or disposal.

Appendix G–II–B–1–d. Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

Appendix G–II–B–1–e. Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombinant DNA materials are handled.

Appendix G–II–B–1–f. Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

Appendix G–II–B–1–g. Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

Appendix G–II–B–1–h. Contaminated materials that are to be steam sterilized (autoclaved) or decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

Appendix G–II–B–1–i. Only persons who have been advised of the nature of the research being conducted shall enter the laboratory.

Appendix G–II–B–1–j. The universal biohazard sign shall be posted on all laboratory access doors when experiments requiring P2 containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

Appendix G–II–B–1–k. An insect and rodent control program shall be instituted.

Appendix G–II–B–1–l. The use of laboratory gowns, coats, or uniforms is required. Laboratory clothing shall not be worn to the lunch room or outside of the building in which the laboratory is located.

Appendix G–II–B–1–m. Animals not related to the experiment shall not be permitted in the laboratory.

Appendix G–II–B–1–n. Use of the hypodermic needle and syringe shall be avoided when alternative methods are available.

Appendix G–II–B–1–o. The laboratory shall be kept neat and clean.

Appendix G–II–B–1–p. Experiments of lesser biohazard potential can be carried out concurrently in carefully demarcated areas of the same laboratory.

Appendix G–II–B–2. *Containment Equipment.* Biological safety cabinets [12] shall be used to contain aerosol-producing equipment, such as blenders, lyophilizers, sonicators, and centrifuges, when used to process organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosol. For example, a centrifuge may be operated in the open if a sealed head or safety centrifuge cups are used.

Appendix G–II–B–3. *Special Laboratory Design.* An autoclave for sterilization of wastes and contaminated materials shall be available in the same building in which organisms containing recombinant DNA molecules are used.

Appendix G–II–C. *P3 Level.*

Appendix G–II–C–1. *Laboratory Practices.*

Appendix G–II–C–1–a. Laboratory doors shall be kept closed while experiments are in progress.

Appendix G–II–C–1–b. Work surfaces shall be decontaminated following the completion of the experimental activity, and immediately following spills of organisms containing recombinant DNA molecules.

Appendix G–II–C–1–c. All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials, such as glassware, animal cages, laboratory equipment, and radioactive wastes, shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposal.

Appendix G–II–C–1–d. Mechanical pipetting devices shall be used; pipetting by mouth is probibited.

Appendix G–II–C–1–e. Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombinant DNA materials are handled.

Appendix G–II–C–1–f. Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

Appendix G–II–C–1–g. Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

Appendix G–II–C–1–h. Contaminated materials that are to be steamsterilized (autoclaved) or decontaminated at a site away from the laboratory shall be placed in durable leak-proof container, which is closed before removal from the laboratory.

Appendix G–II–C–1–i. Entry into the laboratory shall be through a controlled access area. Only persons who have been advised of the nature of the research being conducted shall enter the controlled access area. Only persons required on the basis of program or support needs shall be authorized to enter the laboratory. Such persons shall be advised of the nature of the research being conducted before entry, and shall comply with all required entry and exit procedures.

Appendix G–II–C–1–j. Persons under 16 of age shall not enter the laboratory.

Appendix G–II–C–1–k. The universal biohazard sign shall be posted on the controlled access area door and on all laboratory doors when experiments requiring P3-level containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

Appendix G–II–C–1–l. An insect and rodent control program shall be instituted.

Appendix G–II–C–1–m. Laboratory clothing that protects street clothing (e.g., long-sleeve solid-front or wrap-around gowns, no-button or slipover jackets) shall be worn in the laboratory. Front-button laboratory coats are unsuitable. Laboratory clothing shall not be worn outside the laboratory and shall be decontaminated before it is sent to the laundry.

Appendix G–II–G–1–n. Raincoats, overcoats, topcoats, coats, hats, caps, and such street outer-wear shall not be kept in the laboratory.

Appendix G–II–C–1–o. Gloves shall be worn when handling materials requiring P3 containment. They shall be removed aseptically immediately after the handling procedure and decontaminated.

Appendix G–II–C–1–p. Animals and plants not related to the experiment shall not be permitted in the laboratory.

Appendix G–II–C–1–q. Vaccum outlets shall be protected by filter and liquid disinfectant traps.

Appendix G–II–C–1–r. Use of hypodermic needle and syringe shall be avoided when alternative methods are available.

Appendix G–II–C–1–s. The laboratory shall be kept neat and clean.

Appendix G–II–C–1–t. If experiments involving other organisms which require lower levels of containment are to be conducted in the same laboratory concurrently with experiments requiring P3-level physical containment, they shall be conducted in accordance with all P3-level laboratory practices.

Appendix G–II–C–2. *Containment Equipment.*

Appendix G–II–C–2–a. Biological safety cabinets [12] shall be used for all equipment and manipulations that produce aerosols—e.g., pipetting, dilutions, transfer operations, plating, flaming, grinding, blending, drying, sonicating, shaking, centrifuging—where these procedures involve organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosal.

Appendix G–II–C–2–b. Laboratory animals held in a P3 area shall be housed in partial-containment caging systems, such as Horsfall units [11], open cages placed in ventilated enclosures, solid-wall and -bottom cages covered by filter bonnets, or solid-wall and bottom cages placed on holding racks equipped with ultraviolet radiation lamps and reflectors.

Note.—Conventional caging systems may be used, provided that all personnel wear appropriate personal protective devices. These shall include, at a minimum, wrap-around gowns, head covers, gloves, shoe covers, and respirators. All personnel shall shower on exit from areas where these devices are required.

Appendix G–II–C–2–c. *Alternative Selection of Containment Equipment.* Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified can be conducted in the P3 laboratory using containment equipment specified for the P2 level or physical containment. Experimental procedures involving a host-vector system that provides a one-step lower level of biological containment than that specified can be conducted in the P3 laboratory using containment equipment specified for the P4 level of physical containment. Alternative combinations of containment safeguards are shown in Table I.

TABLE I—POSSIBLE COMBINATIONS OF CONTAINMENT SAFEGUARDS

Classification of experiment		Alternate combinations of physical and biological containment			
		Physical containment			
Physical containment	Biological [1] containment	Laboratory design specified for	Laboratory practices specified for	Containment equipment specified for	Biological containment
P3	HV2	P3	P3	P3	HV2.
P3	HV2	P3	P3	P4	HV1.
P3	HV1	P3	P3	P3	HV1.
P3	HV1	P3	P3	P2	HV2.

[1] See Appendix I for description of biological containment.

Appendix G–II–C–33. *Special Laboratory Design.*

Appendix G–II–C–3–a. The laboratory shall be separated by a controlled access area from areas that are open to unrestricted traffic flow. A controlled access area is an anteroom, a change room, an air lock or any other double-door arrangement that separates the laboratory from areas open to unrestricted traffic flow.

Appendix G–II–C–3–b. The surfaces of walls, floors, and ceilings shall be readily cleanable. Penetrations through these surfaces shall be sealed or capable of being sealed to facilitate space decontamination.

Appendix G–II–C–3–c. A foot-, elbow-, or automatically-operated hand-washing facility shall be provided near each primary laboratory exit area.

Appendix G–II–C–3–d. Windows in the laboratory shall be sealed.

Appendix G–II–C–3–e. An autoclave for sterilization of wastes and contaminated materials shall be available in the same building (and preferably within the controlled laboratory area) in which organisms containing recombinant DNA molecules are used.

Appendix G–II–C–3–f. The laboratory shall have a ventilation system that is capable of controlling air movement. The movement of air shall be from areas of lower contamination potential to areas of higher contamination potential (i.e., from the controlled access area to the laboratory area). If the ventilation system provides positive pressure supply air, the system shall operate in a manner that prevents the reversal of the direction of air movement or shall be equipped with an alarm that would be actuated in the event that reversal in the direction of air movement were to occur. The exhaust air from the laboratory area shall not be recirculated to other areas of the building unless the exhaust air is filtered by HEPA filters or equivalent. The exhaust air from the laboratory area can be discharged to the outdoors without filtration or ther means for effectively reducing an accidental aerosol burden provided that it can be dispersed clear of occupied buildings and air intakes.

Appendix G–II–C–3–g. The treated exhaust-air from Class I and Class II biological safety cabinets [12] may be discharged either to the laboratory or to the outdoors. The treated exhaust-air from a Class III cabinet shall be discharged directly to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through a building exhaust air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinet and the building ventilation system.

Appendix G–II–D. *P4 Level.*

Appendix G–II–D–1. *Laboratory Practices.*

Appendix G–II–D–1–a. Laboratory doors shall be kept closed while experiments are in progress.

Appendix G–II–D–1–b. Work surfaces shall be decontaminated following the completion of the experimental activity and immediately following spills of organisms containing recombinant DNA molecules.

Appendix G–II–D–1–c. All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposal.

Appendix G–II–D–1–d. Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

Appendix G–II–D–1–e. Eating, drinking, smoking, and storage of food are not permitted in the P4 facility.

Appendix G–II–D–1–f. Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

Appendix G–II–D–1–g. Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation lop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

Appendix G–II–D–1–h. Biological materials to be removed from the P4 facility in a viable or intact state shall be transferred to a nonbreakable sealed container, which is then removed from the P4 facility through a pass-through disinfectant dunk tank or fumigation chamber.

Appendix G–II–D–1–i. No materials, except for biological materials that are to remain in a viable or intact state, shall be removed from the P4 facility unless they have been steam-sterilized (autoclaved) or decontaminated by a means demonstrated to be effective as they pass out of the P4 facility. All wastes and other materials as well as equipment not damaged by high temperature or steam shall be steam sterilized in the double-door autoclave of the P4 facility. Other materials which may be damaged by temperature or steam shall be removed from the P4 facility through a pass-through fumigation chamber.

Appendix G–II–D–1–j. Materials within the Class III cabinets shall be removed from the cabinet system only after being steam-sterilized in an attached double-door autoclave or after being contained in a nonbreakable sealed container, which is then passed through a disinfectant dunk tank or a fumigation chamber.

Appendix G–II–D–1–k. Only persons whose entry into the P4 facility is required to meet program or support needs shall be authorized to enter. Before entering, such persons shall be advised of the nature of the research being conducted and shall be instructed as to the appropriate safeguards to ensure their safety. They shall comply with instructions and all other required procedures.

Appendix G–II–D–1–l. Persons under 18 years of age shall not enter the P4 facility.

Appendix G–II–D–1–m. Personnel shall enter into and exit fron the P4 facility only through the clothing change and shower rooms. Personnel shall shower at each egress from the P4 facility. Air locks shall not be used for personnel entry or exit except for emergencies.

Appendix G–II–D–1–n. Street clothing shall be removed in the outer side of the clothing-change area and kept there. Complete laboratory clothing, including undergarments, head cover, shoes, and either pants and shirts or jumpsuits, shall be used by all persons who enter the P4 facility. Upon exit, personnel shall store this clothing in lockers provided for this purpose or discard it into collection hampers before entering the shower area.

Appendix G–II–D–1–o. The universal biohazard sign is required on the P4 facility access doors and on all interior doors to individual laboratory rooms where experiments are conducted. The sign shall also be posted on freezers, refrigerators, or other units used to store organisms containing recombinant DNA molecules.

Appendix G–II–D–1–p. An insect and rodent control program shall be instituted.

Appendix G–II–D–1–q. Animals and plants not related to the experiment shall not be permitted in the laboratory in which the experiment is being conducted.

Appendix G–II–D–1–r. Vacuum outlets shall be protected by filter and liquid disinfectant traps.

Appendix G–II–D–1–s. Use of the hypodermic needle and syringe shall be avoided when alternate methods are available.

Appendix G–II–D–1–t. The laboratory shall be kept neat and clean.

Appendix G–II–D–1–u. If experiments involving other organisms which require lower levels of containment are to be conducted in the P4 facility concurrently with experiments requiring P4-level containment, they shall be conducted in accordance with all P4-level laboratory practices specified in this section.

Appendix G–II–D–2. *Containment Equipment.*

Appendix G–II–D–2–a. Experimental procedures involving organisms that require P4-level physical containment shall be conducted either in (i) a Class III cabinet system or in (ii) Class I or Class II cabinets that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure isolation suits.

Appendix G–II–B–4–b. Laboratory animals involved in experiments requiring P4-level physical containment shall be housed either in cages contained in Class III cabinets or in partial containment caging systems (such as Horsfall units [11], open cages placed in ventilated enclosures, or solid-wall and-bottom cages covered by filter bonnets, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet irradiation lamps and reflectors) that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure suits.

Appendix G–II–D–2–c. *Alternative Selection of Containment Equipment.* Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified can be conducted in the P4 facility using containment equipment requirements specified for the P3 level of physical containment. Alternative combinations of containment safeguards are shown in Table II.

TABLE II.—POSSIBLE COMBINATIONS OF CONTAINMENT SAFEGUARDS

Classification of experiment		Alternate combinations of physical and biological containment			
		Physical containment			
Physical containment	Biological [1] containment	Laboratory design specified for—	Laboratory practices specified for—	Containment equipment specified for—	Biological containment
P4	HV1	P4	P4	P4	HV1.
P4	HV1	P4	P4 [2]	P3	HV2.

[1] See Appendix I for description of biological containment.
[2] In this case gloves shall be worn, in addition to the clothing requirements specified in Appendix G–II–D–1–n.

Appendix G–II–D–3. *Special Laboratory Design.*

Appendix G–II–D–3–a. The laboratory shall be located in a restricted-access facility which is either a separate building or a clearly demarcated and isolated zone within a building. Clothing-change areas and shower rooms shall be provided for personnel entry and egress. These rooms shall be arranged so that personnel leave through the shower area to the change room. A double-door ventilated vestibule or ultraviolet air lock shall be provided for passage of materials, supplies, and equipment which are not brought into the P4 facility through the change room area.

Appendix G–II–D–3–b. Walls, floors, and ceilings of the P4 facility are constructed to form an internal shell which readily allows vapor-phase decontamination and is animal- and insect-proof. All penetrations through these structures and surfaces are sealed. (The integrity of the walls, floors, ceilings, and penetration seals should ensure adequate containment of a vapor-phase decontaminant under static pressure conditions. This requirement does not imply that these surfaces must be airtight.)

Appendix G–II–D–3–c. A foot-, elbow-, or automatically-operated handwashing facility shall be provided near the door within each laboratory in which experiments involving recombinant DNA are conducted in openface biological safety cabinets.

Appendix G–II–D–3–d. Central vacuum systems are permitted. The system, if provided, shall not serve areas outside the P4 facility. The vacuum system shall include in-line HEPA filters near each use point or

service cock. The filters shall be installed so as to permit in-place decontamination and replacement. Water supply, liquid and gaseous services provided to the P4 facility shall be protected by devices that prevent backflow.

Appendix G–II–D–3–e. Drinking water fountains shall not be installed in laboratory or animal rooms of the P4 facility. Foot-operated water fountains are permitted in the corridors of the P4 facility. The water service provided to such fountains shall be protected from the water services to the laboratory areas of the P4 facility.

Appendix G–II–D–3–f. Laboratory doors shall be self-closing.

Appendix G–II–D–3–g. A double-door autoclave shall be provided for sterilization of material passing out of the P4 facility. The autoclave doors shall be interlocked so that both doors will not be open at the same time.

Appendix G–II–D–3–h. A pass-through dunk tank or fumigation chamber shall be provided for removal from the P4 facility of material and equipment that cannot be heat-sterilized.

Appendix G–II–D–3–i. All liquid effluents from the P4 facility shall be collected and decontaminated before disposal. Liquid effluents from biological safety cabinets and laboratory sinks shall be sterilized by heat. Liquid effluents from the shower and hand washing facilities may be activated by chemical treatment. HEPA filters shall be installed in all vents from effluent drains.

Appendix G–II–D–3–j. An individual supply and exhaust-air ventilation system shall be provided. The system shall maintain pressure differentials and directional air flow as required to ensure inflow from areas outside the facility toward areas of highest potential risk within the facility. The system shall be designed to prevent the reversal of air flow. The system shall sound an alarm in the event of system malfunction.

Appendix G–II–D–3–k. Air within individual laboratories of the P4 facility may be recirculated if HEPA filtered.

Appendix G–II–D–3–l. The exhaust air from the P4 facility shall be HEPA filtered and discharged to the outdoors so that it is dispersed clear of occupied buildings and air intakes. The filter chambers shall be designed to allow *in situ* decontamination before removal and to facilitate certification testing after replacement.

Appendix G–II–D–3–m. The treated exhaust-air from Class I and Class II biological safety cabinets [12] may be discharged directly to the laboratory room environment or to the outdoors. The treated exhaust-air from Class III cabinets shall be discharged to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through the P4 facility exhaust air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinets or the facility exhaust air system.

Appendix G–II–D–3–n. As noted in Appendix G–II–D–2–a, the P4 facility may contain specially designed areas in which all personnel are required to wear one-piece positive-pressure isolation suits. Such areas shall be airtight. The exhaust-air from the suit area shall be filtered by two sets of HEPA filters installed in series, and a duplicate filtration unit and exhaust fan shall be provided. The air pressure within the suit area shall be less than that on any adjacent area. An emergency lighting system, communication systems, and power source shall be provided. A double-door autoclave shall be provided for sterilization of all waste materials to be removed from the suit area.

Personnel who enter this area shall wear a one-piece positive-pressure suit that is ventilated by a life-support system. The life-support system shall be provided with alarms and emergency backup air. Entry to this area is through an airlock fitted with airtight doors. A chemical shower area shall be provided to decontaminate the surfaces of the suit before removal.

Appendix G–III. *Footnotes and References of Appendix G.*

1. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health Education and Welfare Publication No. CDC 75–8118.

2. Classification of Etiologic Agents on the Basis of Hazard. (4th Edition, July 1974). U.S. Department of Health, Education and Welfare. Public Health Service. Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

3. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education and Welfare Publication No. (NIH) 75–790.

4. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health. U.S. Government Printing Office, Stock No. 1740–00383.

5. *Biohazards in Biological Research* (1973). A. Hellman, M. N. Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

6. *Handbook of Laboratory Safety* (1971). Second Edition. N. V. Steere (ed.). The Chemical Rubber Co., Cleveland.

7. Bodily, J. L. (1970). *General Administration of the Laboratory*, H. L. Bodily, E. L. Updyke, and J. O. Mason (eds.), Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections. American Public Health Association, New York, pp. 11–28.

8. Darlow, H. M. (1969). *Safety in the Microbiological Laboratory*. In J. R. Norris and D. W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc. New York. pp. 169–204.

9. *The Prevention of Laboratory Acquired Infection* (1974). C. H. Collins, E. G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

10. Chatigny, M. A. (1961). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures*. In W. W. Umbreit (ed.). Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

11. Horsfall, F. L., Jr., and J. H. Baner (1940). *Individual Isolation of Infected Animals in a Single Room*. J. Bact. *40*, 569–580.

12. Biological safety cabinets referred to in this section are classified as *Class I, Class II,* or *Class III* cabinets. A *Class I* is a ventilated cabinet for personnel protection having an inward flow of air away from the operator. The exhaust air from this cabinet is filtered through a high-efficiency particulate air (HEPA) filter. This cabinet is used in three operational modes: (1) with a full-width open front, (2) with an installed front closure panel (having four 8-inch diameter openings) without gloves, and (3) with an installed front closure panel equipped with arm-length rubber gloves. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater.

A *Class II* cabinet is a ventilated cabinet for personnel and product protection having an open front with inward air flow for personnel protection, and HEPA filtered mass recirculated air flow for product protection. The cabinet exhaust air is filtered through a HEPA filter. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. Design and performance specifications for *Class II* cabinets have been adopted by the National Sanitation Foundation, Ann Arbor, Michigan. A *Class III* cabinet is a closed-front ventilated cabinet of gas-tight construction which provides the highest level of personnel protection of all biohazard safety cabinets. The interior of the cabinet is protected from contaminants exterior to the cabinet. The cabinet is fitted with arm-length rubber gloves and is operated under a negative pressure of at least 0.5 inches water guage. All supply air is filtered through HEPA filters. Exhaust air is filtered through two HEPA filters or one HEPA filters. Exhaust air is filtered through two HEAP filters or one HEPA filter and incinerator before being discharged to the outside environment.

Appendix H—Shipment

Recombinant DNA molecules contained in an organixm or virus shall be shipped only as an etiologic agent under requirements of the U.S. Public Health Service, and the U.S. Department of Transportation (Section 72.3, Part 72, Title 42, and Sections 173.386–.388, Part 173, Title 49, U.S. Code of the Federal Regulations (CFR)) as specified below:

Appendix H–I. Recombinant DNA molecules contained in an organism or virus requiring P1, P2, or P3 physical containment, when offered for transportation or transported, are subject to all requirements of Section 782.3(a)–(e), Part 72, Title 42 CFR, and Sections 173.386–.388, Part 173, Title 49 CFR.

Appendix H–II. Recombinant DNA molecules contained in an organism or virus requiring P4, physical containment, when offered for transportation or transported, are subject to all requirements listed above under Appendix H–I and are also subject to Section 72.3(f), Part 72, Title 42 CFR.

Appendix H–III. Additional information on packaging and shipment is given in the "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research," available from ORDA.

[**Note.**—Instructions for the packaging and labeling of etiologic agents will be printed in the revised Guidelines should that proposal be accepted by the RAC.]

Appendix I—Biological Containment

Appendix I–I. *Levels of Biological Containment.* In consideration of biological containment, the vector (plasmid, organelle, or virus) for the recombinant DNA and the host (bacterial, plant, or animal cell) in which the vector is propagated in the laboratory will be considered together. Any combination of vector and host which is to provide biological containment must be chosen or constructed so that the following types of "escape" are minimized: (i) survival of the vector in its host outside the laboratory and (ii) transmission of the vector from the propagation host to other nonlaboratory hosts.

The following levels of biological containment (HV, or *H*ost-*V*ector, system) for prokaryotes will be establish; specific criteria will depend on the organisms to be used.

Appendix I–I–A. *HV1.* A host-vector system which provides a moderate level of containment. *Specific systems:*

Appendix I–I–A–1. *EK1.* The host is always *E. coli* K–12 or a derivative thereof, and the vectors include nonconjugative plasmids (e.g., pSC101, Col1E1, or derivatives thereof [1–7]) and variants of bacteriophage, such as lambda [8–15]. The *E. coli* K–12 host shall not contain conjugation-proficient plasmids, whether autonomous or integrated, or generalized transducing phages.

Appendix I–I–A–2. *Other HV1.* Hosts and vectors shall be, at a minimum, comparable in containment to *E. coli* K–12 with a non conjugative plasmid or bacteriophage vector. The data to be considered and a mechanism for approval of such HV1 systems are described below (Appendix I–II).

Appendix I–I–B. *HV2.* These are host-vector systems shown to provide a high level of biological containment as demonstrated by data from suitable tests performed in the laboratory. Escape of the recombinant DNA either via survial of the organisms or via transmission of recombinant DNA to other organisms should be less than $1/10^5$ under specified conditions. *Specific systems:*

Appendix I–I–B–1. For EK2 host-vector systems in which the vector is a plasmid, no more than one in 10^8 host cells should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment, either by survival of the original host or as a consequences of transmission of the cloned DNA fragment.

Appendix I–I–B–2. For EK2 host-vector systems in which the vector is a phage, no more than one in 10^8 phage particles should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment either (i) as a prophage (in the inserted or plasmid form) in the laboratory host used for phage propagation or (ii) by surviving in natural environments and transferring a cloned DNA fragment to other hosts (or their resident prophages).

Appendix I–II. *Certification of Host-Vector Systems.*

Appendix I–II–A. *Responsibility.* HV1 systems other than *E. coli* K–12, and HV2 host-vector systems, may not be designated as such until they have been certified by the Director, NIH. Application for certification of a host-vector system is made by written application to the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

Host-vector systems that are proposed for certification will be reviewed by the National Institutes of Health (NIH) Recombinant DNA Advisory Committee (RAC). (See Section IV–C–1–b–(1)–(e).) This will first involve review of the data on construction, properties, and testing of the proposed host-vector system by a Working Group composed of one or more members of the RAC and other persons chosen because of their expertise in evaluating such data. The Committee will then evaluate the report of the Working Group and any other available information at a regular meeting. The Director, NIH, is responsible for certification after receiving the advice of the RAC. Minor modifications of existing certified host-vector systems, where the modifications are of minimal or no consequence to the properties relevant to containment may be certified by the Director, NIH, without review by the RAC. (See Section IV–C–1–b–(3)–(c).)

When new host-vector systems are certified, notice of the certification will be sent by the Office of Recombinant DNA Activities (ORDA) to the applicant and to all Institutional Biosafety Committees (IBCs) and will be published in the *Recombinant DNA Technical Bulletin.* Copies of a list of all currently certified host-vector systems may be obtained from ORDA at any time.

The Director, NIH, may at any time rescind the certification of any host-vector system. (See Section IV–C–1–b–(3)–(d).) If certification of a host-vector system is rescinded, NIH will instruct investigators to transfer cloned DNA into a different system, or use the clones at a higher physical containment level unless NIH determines that the already constructed clones incorporate adequate biological containment.

Certification of a given system does not extend to modifications of either the host or vector component of that system. Such modified systems must be independently certified by the Director, NIH. If modifications are minor, it may only be necessary for the investigator to submit data showing that the modifications have either improved or not impaired the major phenotypic traits on which the containment of the system depends. Substantial modifications of a certified system require the submission of complete testing data.

Appendix I–II–B. *Data To Be Submitted for Certification.*

Appendix I–II–B–1. *HV1 Systems Other than E. coli K–12.* The following types of data shall be submitted, modified as appropriate for the particular system under consideration. (i) A description of the organism and vector; the strain's natural habitat and growth requirements; its physiological properties, particularly those related to its reproduction and survival and the mechanisms by which it exchanges genetic information; the range of organisms with which this organism normally exchange genetic information and what sort of information is exchanged; and any relevant information on its pathogenicity or toxicity. (ii) A description of the history of the particular strains and vectors to be used, including data on any mutations which render this organism less able to survive or transmit genetic information. (iii) A general description of the range of experiments contemplated, with emphasis on the need for developing such an HV1 system.

Appendix I–II–B–2. *HV2 Systems.* Investigators planning to request HV2 certification for host-vector systems can obtain instructions from ORDA concerning data to be submitted [14–15]. In general, the following types of data are required: (i) Description of construction steps, with indication of source, properties, and manner of introduction of genetic traits. (ii) Quantitative data on the stability of genetic traits that contribute to the containment of the system. (iii) Data on the survival of the host-vector system under nonpermissive laboratory conditions designed to represent the relevant natural environment. (iv) Data on transmissibility of the vector and/or a cloned DNA fragment under both permissive and nonpermissive conditions. (v) Data on all other properties of the system which affect containment and utility, including information on yields of phage or plasmid molecules, ease of DNA isolation, and ease of transfection or transformation. (vi) In some cases, the investigator may be asked to submit data on survival and vector transmissibility from experiments in which the host-vector is fed to laboratory animals and human subjects. Such *in vivo* data may be required to confirm the validity of predicting *in vivo* survival on the basis of *in vitro* experiments.

Data must be submitted in writing to ORDA. Ten to twelve weeks are normally required for review and circulation of the data prior to the meeting at which such data can be considered by the RAC. Investigators are encouraged to publish their data on the construction, properties, and testing of proposed HV2 systems prior to consideration of the system by the RAC and its subcommittee. More specific instructions concerning the type of data to be submitted to NIH for proposed EK2 systems involving either plasmids or bacteriophage in *E. coli* K–12 are available from ORDA.

Appendix I–III. *Footnotes and References of Appendix I.*

1. Hershfield, V., H. W., Boyer, C. Yanofsky, M. A. Lovett, and D. R. Helinski (1974). *Plasmid Col El as a Molecular Vehicle for Cloning and Amplification of DNA.* Proc. Nat. Acad. Sci. USA *71*, 3455–3459.

2. Wensink, P. C., D. J. Finnegan, J. E. Donelson, and D. S. Hogness (1974). *A System for Mapping DNA Sequences in the Chromosomes of Drosophila Melanogaster.* Cell *3*, 315–335.

3. Tanaka, T., and B. Weisblum (1975). *Construction of a Colicin El–R Factor Composite Plasmid in Vitro: Means for Amplification of Deoxyribonucleic Acid.* J. Bacteriol. *121*, 354–362.

4. Armstrong, K. A., V. Hershfield, and D. R. Helinski (1977). *Gene Cloning and Containment Properties of Plasmid Col El and Its Derivatives,* Science *196*, 172–174.

5. Bolivar, F., R. L. Rodriquez, M. C. Betlach, and H. W. Boyer (1977). *Construction and Characterization of New Cloning*

Vehicles: I. Ampicillin-Resistant Derivative of pMB9. Gene *2*, 75–93.

6. Cohen, S. N., A. C. W. Chang, H. Boyer, and R. Helling (1973). *Construction of Biologically Functional Bacterial Plasmids in Vitro.* Proc. Natl. Acad. Sci. USA *70*, 3240–3244.

7. Bolivar, F., R. L. Rodriquez, R. J. Greene, M. C. Batlach, H. L. Reyneker, H. W. Boyer J. H. Crosa, and S. Falkow (1977). *Construction and Characterization of New Cloning Vehicles: II. A Multi-Purpose Cloning System.* Gene *2*, 95–113.

8. Thomas, M., J. R. Cameron, and R. W. Davis (1974). *Viable Molecular Hybrids of Bacteriophage Lambda and Eukaryotic DNA.* Proc. Nat. Acad. Sci. USA *71*, 4579–4583.

9. Murray, N. E., and K. Murray (1974). *Manipulation of Restriction Targets in Phage Lambda to Form Receptor Chromosomes for DNA Fragments.* Nature *251*, 476–481.

10. Rambach, A., and P. Tiollais (1974). *Bacteriophage Having EcoRI Endonuclease Sites Only in the Non-Essential Region of the Genome.* Proc. Nat. Acad. Sci., USA *71*, 3927–3930.

11. Blattner, F. R., B. G. Williams, A. E. Bleche, K. Denniston-Thompson, H. E. Faber, L. A. Furlong, D. J. Gunwald, D. O. Kiefer, D. D. Moore, J. W. Shumm, E. L. Sheldon, and O. Smithies (1977). *Charon Phages: Safer Derivatives of Bacteriophage Lambda for DNA Cloning.* Science *196*, 163–169.

12. Donoghue, D. J., and P. A. Sharp (1977). *An Improved Lambda Vector: Construction of Model Recombinants Coding for Kanamycin Resistance,* Gene *1*, 209–227.

13. Leder, P., D. Tiemeier and L. Enquist (1977). *EK2 Derivatives of Bacteriophage Lambda Useful in the Cloning of DNA From Higher Organisms: The gt WES System.* Science *196*, 175–177.

14. Skalka, A. (1978). *Current Status of Coliphage EK2 Vectors.* Gene *3*, 29–35.

15. Szybalski, W., A. Skalka, S. Gottesman, A. Campbell, and D. Botstein (1978). *Standardized Laboratory Tests for EK2 Certification.* Gene *3*, 36–38.

D. *Additional Proposals.*

1. Upon reviewing the proposed revised Guidelines, several members of the Working Group for Revision of the Guidelines requested that the language of the current Guidelines in Section III–C be evaluated by the RAC.

That language of the current Guidelines is as follows:

"III–C. *Experiments That Require IBC Notice Simultaneously With Initiation of Experiments.* Experiments not included in Sections III–A, III–B, III–D, and subsections of these Sections are to be considered in Section III–C. All such experiments can be carried out at P1 containment. For experiments in this category, a registration document as described in Section III–B must be dated and signed by the investigator and filed with the local IBC. The IBC shall review all such proposals, but the IBC review prior to initiation of the experiment is not required."

It was noted that non-exempt experiments which might merit more stringent review by RAC or by the IBC prior to initiation of the experiment might not be adequately described in Sections III–A and III–B and thus would automatically fall into Section III–C. The working group members requested that the language of that Section be evaluated at the next RAC meeting in the hope that language to alert researchers and IBCs of this possibility might be developed.

One possible suggested clarification would be to modify the sixth paragraph of Part III, *Containment Guidelines for Covered Experiments.* That paragraph currently reads: "IF AN EXPERIMENT FALLS INTO BOTH CLASS III–A AND ONE OF THE OTHER CLASSES, THE RULES PERTAINING TO CLASS III–A MUST BE FOLLOWED. If an experiment fails into Class III–D and either III–B or III–C as well, it can be considered exempt from the requirements of the Guidelines."

The proposed modification would read: "IF AN EXPERIMENT FALLS INTO BOTH CLASS III–A AND ONE OF THE OTHER CLASSES, THE RULES PERTAINING TO CLASS III–A MUST BE FOLLOWED. If an experiment fails into Class III–D and either III–B or III–C as well, it can be considered exempt from the requirements of the Guidelines. Should doubt arise as to which section covers a proposed protocol, ORDA should be contacted."

2. At the April meeting, the working group recommended deletion of several sections of the Guidelines which were not incorporated into the proposed revised Guidelines as published in Part C of this **Federal Register** document. NIH staff felt that retention of these sections would permit greater flexibility in interpreting and administering the Guidelines. Those sections which the working group suggested should be deleted but which NIH staff have not removed from the proposed revised Guidelines published in part C are:

a. Section IV–C–7 of Section IV–C, *General Definitions,* which reads: "IV–C–7. 'Director, NIH' or 'Director' means the Director of the National Institutes of Health and any other officer or employee of NIH to whom authority has been delegated."

Section IV–C–7 has been renumbered I–D–5 in the proposed revised Guidelines (Part C of this document).

b. Section IV–D–5–b and its subsections of Section IV–D–5, *Principal Investigator,* which reads:

"IV–D–5–b. *Submissions by the PI to NIH.* The PI shall:

"IV–D–5–b–(1). Submit information to NIH (ORDA) in order to have new host-vector systems certified;

"IV–D–5–b–(2). Petition NIH, with notice to the IBC, for exemptions to these Guidelines;

"IV–D–5–b–(3). Petition NIH, with concurrence of the IBC, for approval to conduct experiments specified in Section III–A of the Guidelines;

"IV–D–5–b–(4). Petition NIH for determination of containment for experiments requiring case-by-case review;

"IV–D–5–b–(5). Petition NIH for determination of containment for experiments not covered by the Guidelines."

Section IV–D–5–b has been renumbered IV–B–5–c in the proposed revised Guidelines (part C of this document).

c. Section IV–E–1–b–(1)–(a) and Section IV–E–1–b–(1)–(b) of Section IV–E–1–b, *Specific Responsibilities of the Director, NIH,* which reads:

"IV–E–1–b–(1)–(a). Changing containment levels for types of experiments that are specified in the Guidelines when a major action is involved;

"IV–E–1–b–(1)–(b). Assigning containment levels for types of experiments that are not explicitly considered in the Guidelines when a major action is involved";

Sections IV–E–1–b–(1)–(a) and IV–E–1–b–(1)–(b) have been renumbered Section IV–C–1–b–(1)–(a) and IV–C–1–b–(1)–(b) respectively in the proposed revised Guidelines (part C of this document).

d. Section IV–E–1–b–(2) and its subsection which read:

"IV–E–1–b–(2). *The Director is also responsible for the following lesser actions,* (For these, the Director must seek the advice of the RAC. The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin*):

"IV–E–1–b–(2)–(a). Interpreting and determining containment levels upon request by ORDA;

"IV–E–1–b–(2)–(b). Changing containment levels for experiments that are specified in the Guidelines (see Section III);

"IV–E–1–b–(2)–(c). Assigning containment levels for experiments not explicity considered in the Guidelines;

"IV–E–1–b–(2)–(d). Designating certain class 2 agents as class 1 for the purpose of these Guidelines (see Footnote 1 and Appendix B);"

Section IV–E–1–b–(2) has been renumbered as Section IV–C–1–b–(2) in the proposed revised Guidelines (part C of this document). In the proposed revised Guidelines, this section has been retained, but some of the text has been modified, consistent with changes made in other parts of the Guidelines.

Dated: May 19, 1982.

Richard M. Krause,

Director, National Institute of Allergy and Infectious Diseases.

Note.—OMBS's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

[FR Doc. 82–14375 Filed 5–25–82; 8:45 am]

BILLING CODE 4140–01–M

Reader Aids

Federal Register

Vol. 47, No. 102

Wednesday, May 26, 1982

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
United States Government Manual	523-5230

SERVICES

Agency services	523-4534
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MAY

18847-19110.....3
19111-19306.....4
19307-19496.....5
19497-19656.....6
19657-19960.....7
19961-20104.....10
20105-20284.....11
20285-20542.....12
20543-20738.....13
20739-20982.....14
20983-21230.....17
21231-21528.....18
21529-21754.....19
21755-22070.....20
22071-22338.....21
22339-22494.....24
22495-22930.....25
22931-23134.....26

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
February 27, 1917 (Revoked in part by PLO 6242).....20590
5907 (Revoked in part by PLO 6249).....21546
11264 (Revoked by EO 12363).....22497
11958 (Amended by EO 12365).....22933
12008 (Revoked by EO 12364).....22931
12163 (Amended by EO 12365).....22933
12188 (See EO 12363).....22497
12293 (Amended by EO 12363).....22497
12356 (*See* Order of May 7, 1982).....20105
12362.....21231
12363.....22497
12364.....22931
12365.....22933

Administrative Orders:
May 7, 1982.....20105

Presidential Determinations:
No. 82-12 of April 8, 1982.....22495

Proclamations:
4334 (Revoked in part by Proc. 4941).....19661
4534 (See 4938).....19307
4610 (Revoked in part by Proc. 4941).....19661
4663 (Revoked in part by Proc. 4941).....19661
4770 (Revoked in part by Proc. 4941).....19661
4887 (Revoked in part by Proc. 4940).....19657
4938.....19307
4939.....19509
4940.....19657
4941.....19661
4942.....20543
4943.....22339

5 CFR

Ch. XIV.....22935

Proposed Rules:
213.....20264, 21055, 21267
532.....22100
752.....20264, 21055, 21267
900.....20142
950.....20268

7 CFR

2.....22935, 22936
12.....22071
46.....21233
47.....21233
52.....20107
68.....19309, 20544
227.....22071
246.....20108
253.....19665
271.....22684
272.....19940, 20739, 22684
273.....19940, 20739, 22684
274.....20739
371.....19961
701.....20109
905.....21755
908.....19511, 20545, 21756
910.....19667, 20743, 22072
911.....22073
915.....22073, 22075
918.....20285
944.....22075
953.....22499
981.....19666
991.....18847
1004.....22077
1006.....19313
1007.....19313
1011.....19313, 19667, 22077
1012.....19313
1046.....20285
1124.....22937
1137.....22938
1421.....20744, 22341, 22500
1700-1799.....19111
1701.....19671, 20747
1861.....19962
1872.....19962
1888.....22078
1924.....21235
1941.....21235
1943.....21235
1945.....21235
1965.....19962
1980.....19112

Proposed Rules:
226.....20144
245.....22704, 22707
272.....19943
273.....19943
932.....20593
1032.....21846
1033.....20146
1106.....21684, 22544
1126.....21684
1132.....21684
1250.....20258
1701.....20782, 21268

8 CFR

100.....19671
238.....20110
274.....19315

Proposed Rules:
214.....20147

9 CFR

82.....21237
92.....21529, 22079
145.....21990
147.....21990

Proposed Rules:

201.....20311
203.....20311
306.....22101
307.....19701
317.....22101
381.....19701, 22101

10 CFR

20.....19511
50.....19512
73.....19112
459.....19980

Proposed Rules:

Ch. I.....20783
Ch. II.....19304
Ch. III.....19304
Ch. X.....19304
10.....19703
11.....19703
25.....19703
34.....19152, 20149
50.....19543, 21847
71.....21269
95.....19703
205.....18907
430.....19369
501.....22365
504.....22365
506.....22365
600.....19154
1605.....22368

12 CFR

Ch. VII.....21003
5.....22342
9.....22342
204.....18847
207.....21756
208.....19320
213.....20545
217.....20747, 20748
220.....21238, 21756
221.....21756
309.....22344
348.....22343
550.....19115
561.....20748
563b.....19672
563c.....22346
564.....20748
614.....21003
747.....22939

Proposed Rules:

Ch. III.....18908
203.....22370
226.....20603
309.....22371
341.....18910
545.....19711
555.....19711
556.....19154
561.....19711
563.....20616
563b.....21056
563c.....21056
563d.....21056
570.....19711
742.....22964

13 CFR

125.....22347
132.....22082
305.....19982
306.....19982
307.....19982
308.....19982

Proposed Rules:

Ch. I.....19156
108.....22374
112.....21554
113.....21554
121.....18992
123.....20315

14 CFR

Ch. IV.....22494
39.....18848, 19513, 19514, 19984–19988, 20562, 21003, 21004, 22349, 22350
71.....19515, 19516, 20564–20569, 21005, 21006, 22351
73.....20570
75.....20569
91.....19989
97.....18849, 21007
297.....19683
315.....19688
380.....19690
384.....22503
385.....22504
1201.....20571

Proposed Rules:

Ch. I.....22069
Ch. II.....21069
29.....21078
39.....20001
71.....19551–19554, 21079, 21080, 22375, 22376
73.....20620
398.....21270
399.....18913

15 CFR

371.....22941
372.....22941
373.....22941, 22944, 22945
374.....22941, 22945
375.....22941
376.....22945
385.....19516, 22941
386.....22941
399.....22946
904.....19990
923.....21009
927.....21009
928.....21009
931.....20110, 21009, 21759

Proposed Rules:

17a.....20316

16 CFR

13.....19990, 21530

Proposed Rules:

Ch. II.....19369
13.....21272
423.....21847
1610.....21081
1615.....21085
1616.....21089

17 CFR

1.....21026, 22352
17.....21026
200.....20287, 20290, 22356
211.....21028, 21030
230.....20290, 22356
239.....20290, 22356
240.....21759
274.....22356
275.....22505
279.....22505

Proposed Rules:

210.....19719
240.....20783, 22376
249.....20783

18 CFR

1.....19014
1b.....19014
2.....19014
3.....19014
3a.....19014
3c.....19014
4.....19014, 20295
12.....19014
16.....19014
25.....19014
32.....19014
33.....19014
34.....19014
35.....19014
41.....19014
45.....19014
131.....19014
152.....19014
153.....19014
154.....19014
156.....19014
157.....19014
158.....19014
250.....19014
270.....19014
271.....19014, 20573–20576, 22946
275.....19014
281.....19014
282.....19014
284.....19014
286.....19014
290.....22947
292.....19014
294.....20296
375.....19014
385.....19014
388.....19014
430.....21776

Proposed Rules:

154.....19157, 20621
157.....20621
260.....20317
271.....19157, 19719
375.....20621
381.....20621

19 CFR

6.....19517, 20750
10.....20752
19.....20753
101.....21039
162.....20753

Proposed Rules:

101.....22964
146.....20627
159.....21847

20 CFR

410.....19116

Proposed Rules:

260.....20797
404.....19620, 22965
718.....22674
725.....22674

21 CFR

74.....22509
81.....22509, 22511
82.....22509
175.....22512
176.....21239
177.....22089
178.....22089, 22091, 22512
193.....19321, 21531, 22949
436.....20755, 22513
440.....22513
442.....20755, 22513
444.....22513, 22543
446.....22513
452.....21240
510.....20757, 21241
520.....20757, 22515, 22516
522.....20757, 22091
529.....20758
546.....20111
558.....19117–19120, 20112, 20758–20760, 22092, 22517
561.....19322, 20297
610.....22518
660.....22519

Proposed Rules:

172.....22545
189.....22545
310.....21274
314.....19954
333.....22324
354.....22712
356.....22760
357.....19721
433.....19954
452.....22547
510.....19954

22 CFR

41.....21776
42.....21778

Proposed Rules:

Ch. I.....21555

23 CFR

630.....21778
771.....21880
790.....21880
795.....21780

24 CFR

Ch. II.....20113
58.....21532
120.....20298
203.....21783
204.....21783
220.....21783
221.....21783
222.....21783
226.....21783
227.....21783
233.....21783
235.....21783
237.....21783
240.....21783
255.....20760
300.....21784
570.....21532

805 19120
860 19120
861 19120
865 19120
868 22312
885 20113
888 ..... 19124, 22520
889 19128

Proposed Rules:
81 21093
115 20317
200 ..... 18914, 20149
203 ..... 20149, 20319, 22568
204 ..... 20149, 20319
207 20319
209 20149
211 20149
213 20319
215 ..... 18914, 20149
220 20319
221 ..... 20149, 20319
228 20149
232 20319
235 ..... 18914, 20149
236 ..... 18914, 20149
812 ..... 18914, 20149

25 CFR
11 22093

26 CFR
1 20802
6a 22360

Proposed Rules:
1 ..... 22387, 22966
20 22388
53 20629
301 ..... 22388, 22970

27 CFR
9 ..... 20298, 20300
211 22522
213 22522
240 20302
252 20302

Proposed Rules:
9 20321

28 CFR
0 21532
2 21041
31 21126
50 22094
524 22000
540 22005
544 22006

Proposed Rules:
2 ..... 21095, 22972

29 CFR
1601 22094
2550 21241
2601 19130
2619 20761

Proposed Rules:
Ch. XXVI 19373
1602 20630
1910 ..... 20324, 20803, 22972
1915–1918 20803
1926 20803
2645 19376

30 CFR
100 22286
211 22524
221 ..... 20762, 22524
231 22524
250 22524
270 22524
901 ..... 22030, 22060
915 22950
917 ..... 21404, 21435
925 20116
948 20119

Proposed Rules:
Ch. VII 18920
211 21849
221 ..... 20324, 21849, 21853
231 ..... 20324, 21849
250 21849
270 21849
701 ..... 20631, 21442
715 ..... 20631, 22121
717 20631
772 21442
776 21442
779 ..... 19076, 22121
780 22121
783 ..... 19076, 22121
784 20631
785 ..... 19076, 20631, 22121
815 21442
816 ..... 20631, 22121
817 ..... 20631, 22121
818 20631
819 20631
823 ..... 19076, 20631, 22121
824 20631
826 20631
843 20631
850 20631
901 20631
906 22568
914 22974
935 19721
936 22974
938 19721
942 21096
943 21853
944 20002
946 20152
950 ..... 20002, 22975
951 21274

31 CFR
6 20763
535 22361

32 CFR
92 19322
199 ..... 20122, 20123
373 22529
374 22530
706 19517

Proposed Rules:
Ch. I 21853
505 20632

33 CFR
1 21041
80 19518
81 20577
93 19518
94 19518
95 19518
96 19518
100 ..... 18851, 21784
110 ..... 19519, 20577
117 ..... 20579, 21785
165 ..... 18851, 21785
166 20580
209 20580
401 20581

Proposed Rules:
110 ..... 19555, 20633
117 21857
165 20634
401 21858

34 CFR
614 22020
636 20582
655 20582
656 20582
657 20582
658 20582
660 20582
690 20737

Proposed Rules:
Subtitle A 20809
Ch. I–IV 20809
Ch. VI 20809
Ch. VII 20809
5b 21096
668 19288
690 19288

36 CFR

Proposed Rules:
7 19171

37 CFR
1 21746
201 21786

38 CFR
3 ..... 19131, 20767

Proposed Rules:
3 ..... 20004, 21858
21 19380

39 CFR
111 22095
265 ..... 20303, 21248
775 19991

Proposed Rules
111 20006
232 20326
3000 19131

40 CFR
33 20474
35 20450
51 20124
52 ..... 18854–18860, 19133–19135, 19326–19380, 19520–19523, 19694, 19992–19994, 20124–20126, 20304, 20583, 20586, 20769–20771, 21042, 21533, 21534, 22363, 22531, 22954
57 21790
60 ..... 20305, 22095
61 ..... 20305, 22095
62 ..... 20126, 20490–20494, 22955
65 21536
81 ..... 18861, 19136, 19137, 21792
86 21793
123 ..... 19698, 20773, 21043, 22096, 22363
180 ..... 19335, 19526, 20072, 20306, 20307, 20586, 21536–21538, 22957
264 19995
265 19995
761 ..... 19526, 22098

Proposed Rules:
Ch. I 22069
4 22010
35 20470
52 ..... 19556, 19722, 20007, 20327, 20824, 21097, 21555, 21859, 21860, 22096, 22976, 22978
60 19724
81 ..... 18922, 21097
87 20153
122 ..... 19381, 19726
123 ..... 19172, 19381, 19382, 19726
124 ..... 19381, 19726
146 ..... 19381, 19726
180 ..... 19382, 20328, 20635, 22980–22982
228 ..... 20639, 21103
262 20008
761 22123

41 CFR
Ch. 101 20589
1–1 20532
1–4 20532
1–7 20432
5–6 18862
5A–72 18862
5B–1 18865
5B–2 18865
5B–16 18865
8–3 18866
9–1 21539
9–3 21539
9–4 21539
9–7 21539
9–15 21539
9–50 21539
9–51 21539

Proposed Rules:
Ch. 51 20156
Ch. 9 18923
101–41 19556

42 CFR
110 19336
405 21046
435 21046
436 21046
440 21046
441 21046
447 21046

Proposed Rules:
121 21862
405 ..... 20092, 21103, 22389
481 ..... 20092, 22389

43 CFR
3130 21546
3140 ..... 21546, 22474
3150 22474
8350 23102

Public Land Orders:
869 (Revoked by PLO 6250 21547
2924 (*See* PLO 6248) 21797
4337 (Revoked by PLO 6251) 21547
6067 (*See* PLO 6248) 21797

6098 (See PLO's 6199 and 6245)..... 20775
6103 (corrected by PLO 6243)..... 20590
6199 (See PLO 6245)..... 20775
6241..... 19344
6242..... 20590
6243..... 20590
6244..... 20590
6245..... 20775
6246..... 21796
6247..... 21797
6248..... 21797
6249..... 21546
6250..... 21547
6251..... 21547

Proposed Rules:
Subtitle A..... 20009
Subtitle B..... 20009
23..... 19066
1820..... 19060
1860..... 19060
2820..... 20009
3600..... 19066
3610..... 19066
3620..... 19066
3830..... 19298

44 CFR

61..... 19138
64..... 18867, 19344, 21797, 21800
65..... 18869, 21547, 21802, 21805
70..... 18870–18879, 21548–21531
80..... 19347
81..... 19347
82..... 19347
83..... 19347
84..... 19347

Proposed Rules:
67..... 19172–19187, 19383, 19556, 21556–21560, 21865, 21868

45 CFR

5..... 20309
205..... 18879
1050..... 22533
1067..... 22533
1068..... 22533

46 CFR

30..... 21198
50..... 21807
54..... 21807
56..... 21807
58..... 21807
61..... 21807
91..... 21198
153..... 21198
310..... 21811
524..... 21051

Proposed Rules:
Ch. IV..... 21110
1..... 18929
10..... 18929
12..... 18929
153..... 20084
154..... 20084
187..... 18929

47 CFR

Ch. I..... 21551
0..... 20129
1..... 19357
2..... 18881, 19187, 19357
21..... 19187
22..... 19187
25..... 22958
31..... 19361
61..... 18883
73..... 18900–18902, 20130–20136, 21468, 22098, 22536, 22959–22961
74..... 21468
76..... 21468
78..... 21468
81..... 18881, 19187, 22962
83..... 18881, 20775, 22962
87..... 19187
90..... 19187, 19357, 19527
95..... 19187, 19367
97..... 19368

Proposed Rules:
Ch. I..... 19726, 20328, 21868
2..... 18932, 21888
21..... 18932
73..... 18934, 18936, 20156–20164, 20827, 20828, 22124–22127, 22985–22988
74..... 18932
90..... 21276
94..... 18932
97..... 20165

48 CFR

Proposed Rules:
8..... 19193
32..... 19193

49 CFR

1..... 18903
173..... 20591
178..... 18904
571..... 18904
581..... 21819, 21820
1033..... 19150, 21052, 22963
1034..... 19700
1039..... 20591
1063..... 21840
1064..... 21840
1100..... 18906
1249..... 19150

Proposed Rules:
531..... 20639
171..... 19566
172..... 19566
1207..... 22569, 22570
1244..... 22570

50 CFR

17..... 19539, 19995
80..... 22538
216..... 21248
228..... 21248
230..... 20137
265..... 21840
301..... 19999
611..... 20775
640..... 21256
650..... 20776
651..... 20781
658..... 20310, 22542
661..... 21256

Proposed Rules:
16..... 21892
17..... 22570
18..... 20508
216..... 20496
642..... 21279
651..... 19151
652..... 18939
658..... 22572
674..... 20830

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/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

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.

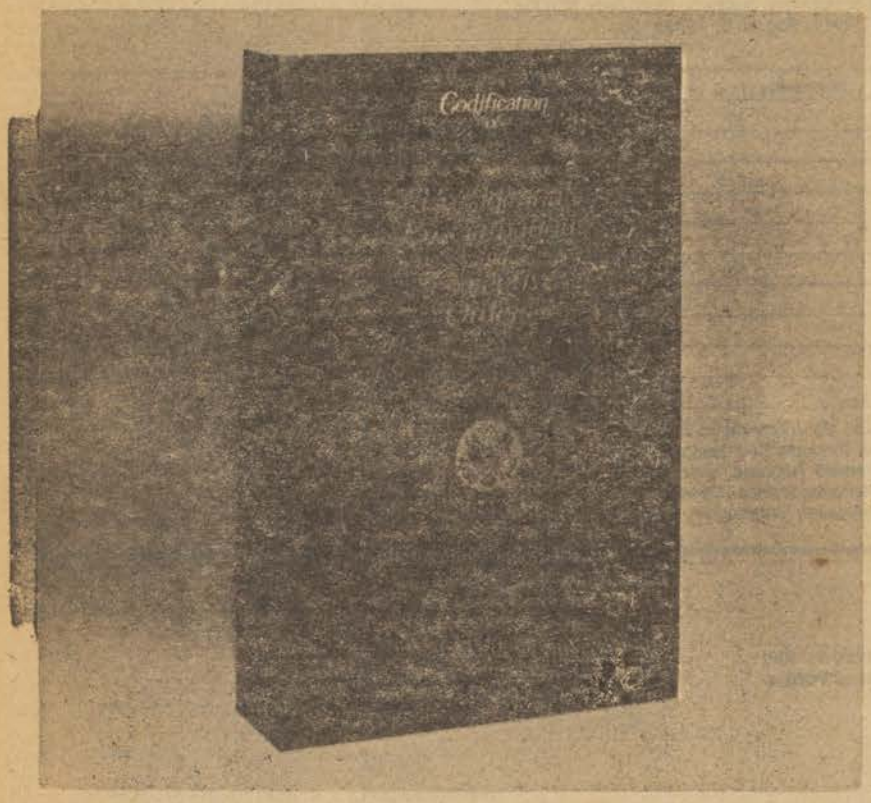
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing May 25, 1982

UPDATED EDITION NOW AVAILABLE



For those of you who must keep informed about Presidential proclamations and Executive orders, there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1981, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1961–1981 period, along with any amendments, an indication of its current status, and, where applicable, its location in this volume.

Published by the Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

MAIL ORDER FORM To:

Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ *check,* ☐ *money order, or charge to my*

Deposit Account No. ☐☐☐☐☐☐☐–☐ *Order No.* _____

master charge THE INTERBANK CARD

VISA

Credit Card Orders Only

Total charges $ _____. Fill in the boxes below:

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Master Charge Interbank No. ☐☐☐☐

FOR OFFICE USE ONLY	
Quantity	Charges
Enclosed	
To be mailed	
Subscriptions	
Postage	
Foreign handling	
MMOB	
OPNR	
UPNS	
Discount	
Refund	

Please send me _____ *copies of the* ***Codification of Presidential Proclamations and Executive Orders*** *at $10.00 per copy. Stock No. 022-002-00097-0.*

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY STATE ZIP CODE

(or) COUNTRY

PLEASE PRINT OR TYPE