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Tuesday
February 16, 1982

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6711 **Grant Programs—Labor** Federal Mediation and Conciliation Service requests applications for FY '82 Labor-Management Cooperation Program.

6685 **Grant Programs—Education** ED issues list of applications for review accepted for hearing by Education Appeal Board.

6776 **Energy** DOE/CREO proposes to establish procedures for making and administering loans for development of wind energy systems and small hydroelectric power projects. (Part III of this issue)

6620 **Oil and Gas Leases** Interior/GS removes requirement to segregate portion of Outer Continental Shelf oil and gas lease that is not included in unit agreement.

6657-6679 **Nuclear Safety** NRC seeks comments on petitions for amendments to rules on physical protection of plants and materials. (3 documents)

6610 **Nuclear Material** NRC exempts export of IAEA safeguards samples from licensing requirements.

6790 **Food Assistance Programs** USDA/FNS issues rule on Summer Food Service Program.

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-009]

Specifically Approved States To Receive Mares Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds the State of New York to the list of specifically approved States authorized to receive certain mares imported into the United States from countries affected with contagious equine metritis (CEM).

This action is being taken because the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, has determined that New York has laws or regulations in effect to require the additional quarantine, treatment and testing of such mares to further ensure their freedom from CEM as required by the regulations.

DATES: Effective February 5, 1982. Comments must be received on or before April 19, 1982.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Dulin, USDA, APHIS, VS, Room 818, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This action has been reviewed in conformance with Executive Order 12291 and Secretary's Memorandum 1512-1, and has been determined to be not a "major rule." The Department has determined that this action will not have a significant annual effect on the economy, will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and will not have any adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived their review process required by Executive Order 12291.

Dr. M. J. Tillery, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim action. This amendment relieves restrictions presently imposed on mares over 731 days of age being imported into the United States, and should be made effective immediately in order to permit affected persons to move these mares into the United States without unnecessary restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency interim action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency interim action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency interim action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action will lift restrictions that were imposed in the fall of 1977 on the importation of certain horses from France, Ireland, and the United Kingdom, as well as restrictions added later on Australia, Belgium, Italy, the Federal Republic of Germany, Japan, Austria, and Denmark. It is anticipated that no more than 40 importers will consign approximately 50-60 mares over 731 days of age from CEM affected countries annually to the State of New York. This compares with 14,666 horses of all classes imported into the United States during Fiscal Year 1980.

To the best of our knowledge, through the years the number of small entities involved in the importation of mares from the countries involved has been extremely limited because of factors such as the number of animals sold; stallion fees ranging from $5,000 to $50,000; stallions syndicated up to $32,000,000 and the international operations involved. The average cost to import a horse from overseas is from $5,000 to $7,000, including preembarkation testing and treatment, the cost of transportation and post entry quarantine.

Background

On Friday, October 16, 1981, there was published in the **Federal Register** (46 FR 50930-50937) amendments to 9 CFR Part 92 which, among other things, authorized the importation of mares over 731 days of age into the United States from countries affected with CEM when specific requirements to prevent their introducing CEM into the United States are met. Further, these amendments require that such imported mares be consigned to States which have been approved by the Deputy Administrator, Veterinary Services, as having met the minimum standards believed necessary to ensure that such mares being imported into the United States are free of the contagion of CEM. These minimum standards are set forth in § 92.4(a)(9) of the regulations. The Deputy Administrator, Veterinary Services, has determined that the State of New York has met the minimum standards believed necessary to ensure that mares over 731 days of age being imported into the United States from

countries affected with CEM are free of the contagion of CEM. Therefore, § 92.4(a)(8)(ii) is amended to add the State of New York to the list of States approved to receive mares over 731 days of age from CEM affected countries.

Alternatives

The alternatives considered in making this decision were (1) not to list New York as a State approved to receive mares over 731 days of age from CEM affected countries, and (2) to make the change set forth in this document.

Alternative No. 1 would prohibit the consignment of mares over 731 days of age from CEM affected countries to the State of New York. This alternative was not adopted because the Deputy Administrator, Veterinary Services, has determined that New York has met the minimum standards necessary to ensure that such mares are free of the contagion of CEM. The continued prohibition on consignment to the State of New York would, therefore, constitute an unnecessary restriction on the importation of such mares.

Alternative No. 2 would allow for the consignment of mares over 731 days of age from CEM affected countries to the State of New York. This alternative was adopted because the Deputy Administrator, Veterinary Services, has determined that the State of New York has met the minimum standards necessary to ensure that such mares are free of the contagion of CEM.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended by revising § 92.4(a)(8)(ii) as follows:

§ 92.4 Import permits for ruminants, swine, horses from countries affected with CEM, poultry, poultry semen, animal semen, birds, and for animal specimens for diagnostic purposes.

(a) * * *

(8) * * *

(ii) The following States have been approved to receive mares over 731 days of age pursuant to § 92.2(i)(2)(v):

The State of Kentucky
The State of New York
The State of Virginia

* * * * *

(Sec. 2, 32 Stat. 792, as amended, sec. 306, 46 Stat. 689, as amended, secs. 2, 4, 11, 76 Stat. 129, 130, 132; (19 U.S.C. 1306, 21 U.S.C. 111, 134a, 134c, 134f; 37 FR 28464, 28477); 38 FR 19141)

All written submissions made pursuant to this interim rule will be made available for public inspection at the Federal Building, Room 870, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 5th day of February 1982.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-3829 Filed 2-12-82; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

Export of Safeguards Samples Pursuant to the US/IAEA Safeguards Agreement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to exempt the export of IAEA safeguards samples from the requirements for a license. This amendment will permit the United States to implement that portion of the US/IAEA Safeguards Agreement which involves the export of IAEA safeguards samples of special nuclear material from facilities designated by the IAEA for the application of safeguards. The amendment will permit the export of these samples without an export license, by NRC licensees, Agreement State licensees, and the U.S. Department of Energy.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT:
Joanna M. Becker, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492-7630; or
David A. Myers, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492-8155

SUPPLEMENTARY INFORMATION: The US/IAEA Agreement for the Application of Safeguards in the United States (the Agreement) provides for the application of IAEA safeguards to selected U.S. nuclear facilities. On July 29, 1980, the Nuclear Regulatory Commission published in the **Federal Register** (45 FR 50705) a final rule adding a new part 75, and amending Parts 40, 50, 70 and 150 of the Commission's regulations. Part 75 and the conforming amendments establish the primary means by which the Agreement will be implemented with respect to NRC and Agreement State licensees.

The purpose of the following amendment to Part 110 is to facilitate certain safeguards activities, required by the Agreement, which will involve the export of IAEA safeguards samples of special nuclear material from those facilities designated by the IAEA for the application of safeguards.

An integral part of the safeguards approach at bulk handling facilities under IAEA safeguards is the destructive analysis of representative samples, drawn from the facility's inventory. This analysis is necessary to verify the element and isotopic content of a representative portion of the facility's inventory in order to establish confidence in the facility's reported inventory. This material sampling and analysis is not normally included in the IAEA safeguards approach for most types of reactors.

The total annual quantity of safeguards samples is anticipated to be 100 grams or less of contained fissile material (Pu, U-233 and U-235) per facility.

While it would be administratively possible for each NRC and Agreement State licensee selected by the IAEA for the application of safeguards and for the Department of Energy (DOE), to apply for a specific license to export IAEA safeguards samples, exempting these exports from the requirements for a license will avoid: (1) An administrative burden on licenses or DOE who otherwise would have to file applications for specific licenses; (2) possible delays which might result from NRC processing of specific license applications; and (3) the problems which would arise if the operator of a safeguarded facility did not apply promptly for a specific license. Exempting these exports from the requirements for a license is consistent with the provisions in section 122 of the Atomic Energy Act, as amended, that the Commission "give maximum effect to the policies contained in any international arrangement" and with NRC's policy to minimize the burden on licensees of implementing the Agreement.

Pursuant to sections 57d. and 54c. of the Atomic Energy Act of 1954, as amended, the Commission has concluded that exemption from the requirements for a license for the export

of IAEA safeguards samples is not inimical to the common defense and security, and does not constitute an unreasonable risk to the public health and safety. Furthermore, the amendment is consistent with other provisions of the Atomic Energy Act, as amended by the Nuclear Nonproliferation Act of 1978, with the Treaty on the Nonproliferation of Nuclear Weapons, and with the obligations of the United States under the US/IAEA Safeguards Agreement.

The Commission has not prepared an environmental impact statement or a negative declaration since the amendment is non-substantive and insignificant from the standpoint of environmental impact.

The final rule contains no new or amended requirements for recordkeeping, reporting, plans or procedures, applications, or any other type of information collection subject to the Paperwork Reduction Act of 1980.

Since the amendment will not result in any increased requirements or expense to the public, the Commission has not prepared a separate value-impact analysis. Based on preliminary estimates, the amendment should reduce the number of specific export licenses required for implementation of the US/IAEA Safeguards Agreement by approximately 3 licenses per bulk handling facility per year.

Licensees should note that nothing in the amendment is intended to relieve any person from complying with other U.S. government agencies' regulations applicable to exports under their authority, any pertinent requirement in Parts 71 and 73 of Title 10 of the Code of Federal Regulations, or any Commission order pursuant to section 201(a) of the Energy Reorganization Act of 1974, as amended, pertaining to shipment of plutonium by air.

Because this amendment involves the foreign affairs functions of the United States, notice of proposed rulemaking and public procedure thereon are not required by sSection 553 of Title 5 of the United States Code. Since the amendment grants an exemption from regulations currently in effect, it will become effective without the customary 30-day notice.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to 10 CFR Part 110 is published as a document subject to codification.

PART 110—EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for Part 110 is revised to read as follows:

Authority: 51, 53, 54, 57, 62, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161 b. and i., 181, 182, 183, 187, 189, Pub. L. 83–703, 68 Stat. 929, 930, 931, 932, 933, 936, 937, 948, 953, 954, 955, 956; Pub. L. 88–489, 78 Stat. 603–605; Pub. L. 91–560, 84 Stat. 1472; 70 Stat. 1069–1071, Pub. L. 85–256, 71 Stat. 579; Pub. L. 87–615, 76 Stat. 409; Pub. L. 93–377, 88 Stat. 473–475, Pub. L. 95–242, 92 Stat. 125, 126, 131–139, 141 (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201 (b) and (i), 2231–2233, 2237, 2239); Sec. 201, 202, Pub. L. 93–438, 88 Stat. 1242, Pub. L. 94–79, 89 Stat. 413, 414 (42 U.S.C. 5841, 5842).

Sec. 110.13 also issued under sec. 122, Pub. L. 83–703, 68 Stat. 939 (42 U.S.C. 2152).

Sec. 110.51 also issued under sec. 184, Pub. L. 83–703, 63 Stat. 954; Pub. L. 88–489, 78 Stat. 607 (42 U.S.C. 2234).

Sec. 110.52 also issued under sec. 186; Pub. L. 83–703, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, Pub. L. 83–703, 68 Stat. 958, Pub. L. 90–190, 81 Stat. 578; Pub. L. 91–161, 83 Stat. 445 (42 U.S.C. 2273); §§ 110.50 and 110.120–110.126 also issued under sec. 161i., Pub. L. 83–703, 68 Stat. 948, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2201(i)).

Sec. 110.53 also issued under Sec. 161o., Pub. L. 83–703, 68 Stat. 950, Pub. L. 85–507, 72 Stat. 337 (42 U.S.C. 2201(o)).

Sec. 110.80–110.113 also issued under 5 U.S.C. 552, 554.

Sec. 110.130–110.135 also issued under 5 U.S.C. 553.

2. A new § 110.13 is added to read as follows:

§ 110.13 Export of IAEA safeguards samples.

Any person is exempt from the requirements for a license to export special nuclear material set forth in sections 53 and 54d. of the Atomic Energy Act and from the regulations in this part to the extent that the person exports special nuclear material in IAEA safeguards samples, if the samples are exported in accordance with § 75.42(e)(1) of this chapter, or a comparable Department of Energy order, and are in quantities not exceeding a combined total of 100 grams of contained plutonium, U–233 and U–235 per facility per year. This exemption does not relieve any person from complying with Parts 71 or 73 of this chapter or any Commission order pursuant to section 201(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5841(a)).

Dated at Washington, D.C. this 10th day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82–4056 Filed 2–12–82; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 22]

Changes to Delegations of Authority To Conduct Program Activities in the Field; Correction

AGENCY: Small Business Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule regarding changes to delegations of authority to conduct program activities in the field, which was published in the **Federal Register** on Janaury 15, 1982 (47 FR 2305).

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416, (202) 653–8538.

SUPPLEMENTARY INFORMATION: In FR Doc. 82–980 appearing at page 2306 in the issue for Friday, January 15, 1982, Part II, Section A, paragraph 1.a.(2), line (k) now reading "Supervisory Loan Specialist, D/O 300,000 * * *" should read "Supervisory Loan Specialist, Disaster Office 300,000 * * *"

Appearing at page 2307, Part II, Section A, paragraph 9.b., line (15) now reading "Supervisory Loan Specialist, D/O * * *" should read "Supervisory Loan Spec., Disaster Off. * * *"

Dated: February 8, 1982.

Ronald Allen,

Federal Register Liaison Officer.

[FR Doc. 82–3872 Filed 2–11–82; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82–CE–2–AD; Amendment 39–4318]

Airworthiness Directives; Cessna Model P210N Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises existing Emergency Airworthiness Directive (AD) 81–23–03 applicable to Cessna Model P210N airplanes and codifies the revised AD into the **Federal Register**. It permits extension of the 25-hour inspection interval specified in this AD to 50 hours when performed in accordance with the instructions in Cessna Service Information Letter (SIL) SE82–3. Initial and repetitive inspection of the engine exhaust system is necessary to detect and preclude engine exhaust system failure which may cause engine and airframe damage. These actions will increase reliability of the engine exhaust system and assure acceptable engine and airplane performance, thereby precluding a safety hazard.

EFFECTIVE DATE: February 18, 1982 to all persons except those to whom it has already been made effective by letter dated October 31, 1981, as corrected by letter dated November 5, 1981.

COMPLIANCE: As prescribed in the body of the AD.

ADDRESSES: Cessna Single-engine Customer Care Service Information Letters SE79–52, Revision 1, dated November 5, 1979, SE81–21, dated May 18, 1981, and SE82–3, dated January 25, 1982, applicable to this AD, may be obtained from Cessna Aircraft Company, Marketing Division, Attention: Customer Service Department, Wichita, Kansas 67201; Telephone (316) 685–9111. Copies of the Service Information Letters are also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106; and/or Room 916, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Paul O. Pendleton, ACE–214, Wichita Aircraft Certification Office, FAA, Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 269–7010.

SUPPLEMENTARY INFORMATION: The FAA has received an increasing number of reports of failure of the engine exhaust system. Seven reports indicated exhaust failure had damaged and/or burned the cowl. One report indicated the cowl had burned through, allowing outside ram air to mix with exhaust gases and impinge on electrical wiring. This airplane experienced an emergency landing after losing engine and electrical power caused by exhaust gases heating and shorting engine ignition wiring and airframe electrical wiring. An additional report indicated the pilot was feeling sick after prolonged flight in an airplane with a cracked exhaust system component. Accordingly, the FAA determined that compliance with special inspection instructions was necessary in the interest of safety and an Emergency AD 81–23–03 was mailed to all Cessna P210N owners of record on October 31, 1981. A corrected version of this AD was mailed to these owners on November 5, 1981. It was applicable to all serial numbers of Cessna Model P210N airplanes and required initial and repetitive 25-hour inspections of the engine exhaust system of all these airplanes.

Additional information received since issuance of the emergency AD warrants a relieving amendment.

AD 81–23–03 is now being amended to limit effectivity to those airplanes with original design exhaust systems and to extend repetitive inspections of these airplanes to 50-hour intervals when conducted in accordance with Cessna SIL SE82–3.

Since the unsafe condition described herein may still exist on other Cessna model airplanes described herein, the AD incorporating the above relieving revisions is being published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective to all persons who did not receive the emergency letter notification.

Since the FAA has determined that there is an immediate need for this regulation to correct an unsafe condition and assure safe operation of the affected airplanes, the regulation is within the exemption provisions of Section 8(a)(1) of Executive Order 12291. In addition, notice and public procedure under 5 U.S.C. 553(b) was considered impractical and contrary to the public interest, and good cause exists for making the amendment effective in less than thirty (30) days after the publication in the **Federal Register**.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising Airworthiness Directive (AD) 81–23–03 to read as follows:

Cessna: Applies to Model P210N airplanes, Serial Numbers P21000001 through P21000860 certificated in any category with 25 or more total hours time-in-service.

Compliance: Required as indicated unless already accomplished.

To ensure the integrity of the engine exhaust system, accomplish the following:

(A) Prior to further flight on all airplanes with 25 hours or more time-in-service unless previously accomplished in accordance with AD 81–23–03:

1. Remove the engine cowl side and front panels and visually inspect the entire engine exhaust system for cracks. The cabin heat shroud does not have to be removed for this inspection.

2. Replace any cracked exhaust system components with serviceable parts.

Note.—Particular attention should be given to the exhaust system components attached to and between the two forwardmost (Nr. 5 and Nr. 6) cylinders.

(B) Within the next 10 hours time-in-service after the effective date of this AD and at each 50 hours time-in-service thereafter except as required by paragraph (B)3:

1. Remove the engine cowl side and front panels as well as the cabin heater muff.

2. Visually inspect the entire engine exhaust system for cracks and bulges in the exhaust stacks, manifold, turbocharger and wastegate assemblies in accordance with Cessna SIL SE82–3.

3. Replace any cracked or bulged exhaust system components with serviceable parts in accordance with Cessna SIL SE82–3. If the exhaust system components have been removed and replaced with serviceable parts, or repaired by welding, reinspect within 25 hours time-in-service and replace or repair cracked or bulged components in accordance with Cessna SIL SE82–3. If no defects are found, the 50-hour inspection interval may be reinstated.

(C) The inspection required by paragraph (A)1 of this AD may be accomplished by the holder of at least a private pilot certificate issued under Part 61 of the Federal Aviation Regulations on any airplane owned or operated by that person (provided the airplane is not used in air carrier service). Make the prescribed entry in the aircraft maintenance record appropriate to this inspection.

(D) Any equivalent method of compliance with this AD must be approved by the Chief, Wichita Aircraft Certification Office (formerly Aircraft Certification Program), Federal Aviation Administration , Room 238, Terminal Building No. 2299, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 269–7000.

Cessna Single-engine Customer Care Service Information Letters SE79–52, Revision 1, dated November 5, 1979, SE81–21, dated May 18, 1981, and SE82–3, dated January 25, 1982, pertain in part to the subject matter of this AD.

This amendment becomes effective on February 18, 1982, to all persons except those to whom it has already been made effective by airmail letter from the FAA dated October 31, 1981, as corrected by letter dated November 5, 1981.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.89, Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation under the President's memorandum of January 29,

1981, and an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in the aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if prepared and when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by the Courts of Appeals of the United States, or the United States Court of Appeals of the District of Columbia.

Issued in Kansas City, Mo., on February 4, 1982.

Murray E. Smith,

Director, Central Region.

[FR Doc. 82-3912 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWA-2]

Extension of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment extends VOR Federal Airway V-287 from Fort Jones, CA, to Medford, OR. A recent flight inspection indicated the minimum en route altitude (MEA) in that area must be raised to 15,000 feet MSL due to poor signal reception. This action corrects that problem by adding an additional navigational aid.

DATES: Effective date—May 13, 1982. Comments must be received on or before March 18, 1982.

ADDRESSES: Send comments on the rule in triplicate to: Director, FAA Northwest Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 82-AWA-2, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Requests for Comments on the Rule

Although this action is in the form of a final rule, which involves the extension of V-287 to Fort Jones, CA, and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic and energy aspects of the rule that might suggest the need to modify the rule. Send comments on environmental and land use aspects to:

Director, FAA Northwest Mountain Region, Attention: Chief, Air Traffic Division, Docket No. 82-AWA-2, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, WA 98108.

The Rule

The purpose of this amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to extend VOR Federal Airway V-287 from Medford, OR, to Fort Jones, CA, via an east dogleg utilizing radials of the revoked VOR Federal Airway V-23E. This action assures a lower MEA in that area for pilots not equipped with oxygen equipment. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in the **Federal Register** on January 2, 1981 (46 FR 409). Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to maintain the current route alignment of V-23E that was revoked in Airspace Docket No. 81-ANW-8 in order to accommodate pilots and aid flight planning. Therefore, I find that notice or public procedure under 5 U.S.C. 533(b) is contrary to the public interest and that good cause exists for making this amendment effective in less than 30 days after its publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 409), is amended, effective 0901 G.m.t., May 13, 1982, as follows:

V-287 [Amended]

By removing the words "From Medford, OR," and substituting the words "From Fort Jones, CA, via INT Fort Jones 041° and Medford, OR, 157° radials; Medford;"

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on February 8, 1982.

B. Keith Potts,

Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 82-3910 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 81-AWP-26]

Establishment of Transition Area, Half Moon Bay, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700 foot transition area for Half Moon Bay Airport, Half Moon Bay, California, in order to provide controlled airspace for aircraft executing an instrument approach procedure to the Half Moon Bay Airport.

EFFECTIVE DATE: February 18, 1982.

FOR FURTHER INFORMATION CONTACT:
Mr. Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

On December 17, 1981, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area for Half Moon Bay, California (46 FR 61487). Establishment of this transition area will provide controlled airspace for protection of instrument operations of Half Moon Bay Airport.

Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the **Federal Register** on January 2, 1981 (46 FR 540).

The Rule

This amendment of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes a transition area at Half Moon Bay, California. This transition area provides protection for instrument operations at Half Moon Bay Airport, increases air traffic safety and improves flow control procedures.

Adoption of the Admendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (46 FR 540) is amended, effective 0901, February 18, 1982, by adding the following:

§ 71.181 Half Moon Bay, California.

That airspace extending upward from 700 feet above the surface, bounded on the north by latitude 37°35'00" N, on the east by longitude 122°25'00" W, on the south by latitude 37°24'00" N, and on the west by longitude 122°35'00" W.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Los Angeles, Calif., on February 4, 1982.

H. C. McClure,

Director, Western Pacific Region.

[FR Doc. 82-3911 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

Commodity Control List; Recording and/or Reproducing Equipment Revision of Note in CCL Entry No. 1572A

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

ACTION: Final rule.

SUMMARY: In the **Federal Register** of May 12, 1981 (46 FR 26281), entry No. 1572A of the Commodity Control List (CCL) which controls certain recording and/or reproducing equipment was revised. This revision included the addition of four exceptions describing commodities *not* controlled by entry No. 1572A. A Note describing a technology restriction applying to Exceptions 2 through 4 was also added, but its placement in the CCL could be confusing. This rule revises that Note to entry No. 1572A by placing it at the left margin of the entry and by adding language to emphasize that the Note applies to Exceptions 2 through 4 which appear below it.

EFFECTIVE DATE: February 16, 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.

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

Accordingly, the Commodity Control List, Supplement No. 1 to § 399.1 of the Export Administration Regulations (15 CFR Parts 368–399), is amended as follows:

§ 399.1 Supplement No. 1 [Amended]

* * * * *

Entry No. 1572A is amended by moving the Note between Exception 1 and Exception 2 to the left margin of the entry, and revising the Note to read as follows:

1572A Recording and/or reproducing equipment, * * *

* * * * *

Exception 1 * * *

Note.—No technical data relating to the commodities described in Exceptions 2 through 4 below may be exported under General License *GTDR* until a written assurance against reexport of the data has been obtained by the exporter in accordance with § 379.4(f)(3).

* * * * *

(Secs. 5, 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: January 8, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-3995 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

[T.D. 82-33]

Customhouse Brokers

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to give district directors of Customs sole discretion to exempt a customhouse broker from maintaining the prescribed format for Customs transactions set forth in the regulations. By not requiring district directors to obtain concurrence from Customs Regional Directors of Regulatory Audit, substantial man-hours and travel funds will be saved.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Joseph Balaney, Regulatory Audit Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

Part 111, Customs Regulations, (19 CFR Part 111), among other things, sets forth the provisions relating to the duties and responsibilities of customhouse brokers. Section 111.22(a), Customs Regulations, requires each broker to keep current, a record of all Customs transactions in the format set forth in § 111.22(d), Customs Regulations, unless an exemption has been granted pursuant to § 111.22(b), Customs Regulations. Section 111.22(b) provides that if the information required in § 111.22(a) is disclosed in other books and records regularly kept and maintained by a broker, and if such information is in a systematic, convenient, and readily available form so that Customs regulatory auditors can make an effective and complete inspection thereof, the district director, with the concurrence of the Regional Director, Regulatory Audit, may, in writing, exempt the broker from the requirements of § 111.22(a). A written request, addressed to the district director for this exemption shall include:

1. A statement of facts as to the records kept; and

2. An agreement that, if the exemption is granted, no change in the system of books and records or the manner of keeping and maintaining them will be made without the prior written approval of the district director and concurrence in the change by the Regional Director, Regulatory Audit.

Customs has found that concurrence of the Regional Director, Regulatory Audit, in the approval of requests from brokers for an exemption from maintaining their Customs transactions in the prescribed format as set forth in § 111.22(d), and subsequent changes in their accounting systems results in the expenditure of substantial man-hours and travel funds. Accordingly, § 111.22(b) is being amended to give the district directors the sole responsibility for approving or disapproving requests for exemptions. The amendment will permit the Regional Regulatory Audit staff to perform subsequent audits of brokers in accordance with their approved audit plans and if records are found to be inadequate this finding would be reported to the district director for appropriate action.

Inapplicability of Public Notice Requirements

Because this amendment relates solely to an internal Customs procedure, and it is not of particular interest to the general public, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code, as added by Pub. L. 96-354, the "Regulatory Flexibility Act." That act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

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

Amendments to the Regulations

PART 111—CUSTOMHOUSE BROKERS

Section 11.22(b), Customs Regulations (19 CFR 111.22(b)), is revised to read as follows:

§ 111.22 Additional record of transactions.

* * * * *

(b) *Exemption.* If the information required in paragraph (a) is disclosed in other books and records regularly kept and maintained by a broker and if such information is in a systematic, convenient, and readily available form, the district director may in writing exempt the broker from the requirements of paragraph (a) of this section. A written request for exemption shall be addressed to the district director and shall include:

(1) A statement of facts as to the records kept; and

(2) An agreement that, if the exemption is granted, no change in the system of books and records or the manner of keeping and maintaining them will be made without prior written approval of the district director.

* * * * *

(R. S. 251, as amended, sections 624, 641, 46 Stat. 759, as amended, section 501, 65 Stat. 290 (19 U.S.C. 66, 1624, 1641, 31 U.S.C. 483(a))

William T. Archey,

Commissioner of Customs.

January 26, 1982.

Approved: John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 82-4009 Filed 2-12-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 75N-0020]

21 CFR Part 436

Tests and Methods of Assay of Antibiotic and Antibiotic-Containing Drugs; Penicillin; Updating and Technical Revisions; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule relating to tests and methods of assay of antibiotic and antibiotic-containing drugs; penicillin, appearing on page 59852 in the issue for November 22, 1977.

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

SUPPLEMENTARY INFORMATION: In FR Doc. 77-33332 appearing at page 59852 in the issue for Tuesday, November 22, 1977, the following corrections are made: In paragraph (b) of § 436.33 *Safety test* (21 CFR 436.33) in the last column in the table for the entry for the antibiotic drug

"Cloxacillin benzathine," the word "Do" is changed to read "Intraperitoneal" and in the entry for the antibiotic drug "Cloxacillin sodium monohydrate," the word "Do" is changed to read "Intravenous."

Dated: February 8, 1982.

William F. Randolph,

Acting Associate Commissioner, Regulatory Affairs.

[FR Doc. 82-3914 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Dexamethasone Sodium Phosphate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by John D. Copanos, Inc., providing for safe and effective use of a dexamethasone sodium phosphate injection in dogs and horses for its glucocorticoid and anti-inflammatory effect.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: John D. Copanos, Inc., 6110 Robinwood Rd., Baltimore, MD 21225, filed an NADA (124-510) providing for intravenous use of a dexamethasone sodium phosphate injection in dogs and horses. The product contains 4 milligrams of dexamethasone sodium phosphate per milliliter and is administered for its adrenal glucocorticoid and anti-inflammatory effect.

The product is similar to Schering's Azium (dexamethasone sterile injection), a National Academy of Sciences/National Research Council (NAS/NRC) reviewed product, which was found effective as an anti-inflammatory agent in dogs, cats, horses, and cattle. Subsequently, Anthony Products' Dex-A-Vet Injection (dexamethasone sodium phosphate sterile injection) was approved as provided under 21 CFR 320.25(e) for the same conditions of use based on a bioavailability study. Both products are codified in 21 CFR 522.540. Copanos' product is approved based on its being identical to Anthony Products' approved product which has been found similar to the NAS/NRC reviewed product. The requirement for evidence of in vivo bioavailability has been waived under 21 CFR 320.22(b)(1). NADA 124-510 is approved and the regulation is amended appropriately.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.540 by revising paragraph (e)(2) to read as follows:

§ 522.540 Dexamethasone injection.

* * * * *

(e) * * *

(2) *Sponsors.* See Nos. 015579 and 010271 in § 510.600(c) of this chapter.

* * * * *

Effective date. This regulation is effective February 16, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 4, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-3759 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Praziquantel Injectable Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Bayvet Division of Cutter Laboratories, Inc., providing for safe and effective subcutaneous or intramuscular use of praziquantel injectable solution for removal of certain cestodes from cats.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: Bayvet Division of Cutter Laboratories, Inc., P.O. Box 390, Shawnee, KS 66201, filed a supplemental NADA (111-607) providing for safe and effective use of praziquantel injectable solution (Droncit Injectable Cestocide) for removal of certain feline cestodes. Bayvet submitted results of several controlled critical preclinical studies demonstrating effectiveness of the drug in treating naturally and experimentally induced *D. caninum* and *T. taeniaeformis* infections in cats, and results of field studies using bunamidine hydrochloride as a positive control drug. Several controlled safety evaluations and clinical trials demonstrated safe use of the drug.

Based on the data and information submitted, the supplemental NADA is approved and the regulations are amended to reflect the approval. The firm currently holds approval for use of the drug for treating dogs as reflected in 21 CFR 522.1870.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human

environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*a*), (*e*)(1) and (*2*), and (iii)) which may be seen in the Dockets Management Branch (address above).

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i) 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1870 by redesignating existing paragraph (c)(1), (2), and (3) as (c)(1)(i), (ii), and (iii), and by adding new (c)(1) heading and new (c)(2), to read as follows:

§ 522.1870 Praziquantel injectable solution.

* * * * *

(c) * * * (1) *Dogs.* * * *

(2) *Cats.*—(i) *Amount.* For cats under 5 pounds, 0.2 milliliter (11.4 milligrams); 5 to 10 pounds, 0.4 milliliter (22.7 milligrams); 11 pounds and over, 0.6 milliliter (34.1 milligrams) maximum.

(ii) *Indications for use.* For removal of feline cestodes *Dipylidium caninum* and *Taenia taeniaeformis.*

(iii) *Limitations.* For subcutaneous or intramuscular injection only. Not intended for use in kittens less than 6 weeks of age. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This amendment is effective February 16, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 4, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-3761 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Mibolerone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) sponsored by The Upjohn Co. providing for safe and effective use of mibolerone in a canned dog food for the prevention of estrus (heat) in female dogs not intended primarily for breeding purposes.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: The Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001, filed an NADA (107-347) which provides for safe and effective use of mibolerone in a canned dog food for the prevention of estrus (heat) in adult female dogs not intended primarily for breeding purposes.

Approval of this NADA relies on safety and efficacy data in Upjohn's NADA 102-709, and clinical and nonclinical studies supporting use of the new formulation. The NADA is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is governed by the provisions of 5 U.S.C. 556 and 557 and is therefore excluded from Executive Order 12291 by section 1(a)(1) of the Order.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended by adding new § 558.348, to read as follows:

§ 558.348 Mibolerone.

(a) *Approvals.* To No. 000009 in § 510.600(c) of this chapter for a canned dog food, each 6½ ounce can containing 30 or 60 micrograms of mibolerone.

(b) *Conditions of use.*—(1) *Amount.* 30 micrograms for animals weighing up to 25 pounds; 60 micrograms for animals weighing 26 to 50 pounds; 120 micrograms for animals weighing 51 to 100 pounds; 180 micrograms for animals weighing over 100 pounds, or German Shepherds or German Shepherd mix weighing 30 to 80 pounds.

(2) *Indications for use.* For the prevention of estrus (heat) in adult female dogs not intended primarily for breeding purposes.

(3) *Limitations.* Administer daily at least 30 days before expected initiation of heat and continue as long as desired, but for not more than 12 months. Mibolerone should not be used in bitches before first estrous period or in purebred Bedlington terriers. It is not intended for animals being used primarily for breeding purposes. Use orally in adult female dogs only. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective February 16, 1982.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: February 4, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-3760 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 601

[Docket No. 78N-0400]

Protection of Human Subjects; Informed Consent; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting an omission that occurred inadvertently in the conforming amendments to the regulation on protection of human subjects; informed consent, which was published in the Federal Register of January 27, 1981 (46 FR 8942).

EFFECTIVE DATE: July 27, 1981.

FOR FURTHER INFORMATION CONTACT: Al Rothschild, Bureau of Biologics

(HFB–620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 27, 1981 (46 FR 8942), FDA published the regulation on protection of human subjects; informed consent and standards for institutional review boards for clinical investigations. In the conforming amendments to that regulation, a sentence was inadvertently omitted from § 601.2(a) (21 CFR 601.2(a)). This document corrects that omission.

PART 601—LABELING

§ 601.2 [Amended]

In FR Doc. 81–2687 appearing at page 8942 in the **Federal Register** of January 27, 1981, the following correction is made in the third column on page 8955: In § 601.2 *Applications for establishment and product licenses; procedures for filing,* in paragraph (a) the following sentence is added before the last sentence in the paragraph: "The applicant shall also include an environment impact analysis report analyzing the environmental impact of the manufacturing process and the ultimate use or consumption of the biological product pursuant to § 25.1 of this chapter."

Dated: February 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–3913 Filed 2–12–82; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 740

Relocation Assistance; Revised Interest Payments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: Federal Highway Administration (FHWA), is issuing this amendment in order to change the discount rate used in computing an interest differential payment for homeowners displaced by Federal or federally assisted highway projects. This amendment eliminates the requirement that the discount rate must be the prevailing rate paid on passbook savings accounts.

EFFECTIVE DATE: March 22, 1982.

FOR FURTHER INFORMATION CONTACT: Gerald Starkweather, Relocation Assistance Division, Office of Right-of-Way (202–426–0117); or Reid Alsop, Office of the Chief Counsel (202–426–0800), Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours Monday–Friday from 7:45 a.m. to 4:15 p.m. ET.

SUPPLEMENTARY INFORMATION: Section 203(a)(1)(B) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et seq.*) provides that the replacement housing payment to displaced homeowners, provided by section 203, shall include "The amount, if any, which will compensate such displaced person for any increased interest costs which such person is required to pay for financing the acquisition of * * * comparable dwelling." The amount of such payment is to equal the total increase in cost for a mortgage of the same amount and term as was on the acquired dwelling, "reduced to discounted present value." Section 203 (a)(1)(B) provides that "the discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located."

In implementing this provision FHWA provided in 23 CFR 740.74(c)(4) that the discount rate "shall be the prevailing rate of the interest paid on *passbook* savings account deposits by commercial banks in the general area in which the replacement dwelling is located." (Emphasis supplied.)

At the time the regulation was issued, interest rates for home mortgages were substantially lower, and the passbook savings rate was a reasonable rate to utilize. With the general escalation of interest rates and with the advent of the savings certificate and other types of savings deposits, and their increased popularity, it is considered necessary to eliminate the requirement that computation of the interest differential payment be based upon the interest rate paid on passbook savings. The current regulation, which limits the discount rate to that paid on passbook savings account deposits, has resulted in inordinately excessive interest differential payments in many cases.

The use of the passbook savings account rate of interest in computing the differential payment results in a final computed amount which is larger than if higher alternative rates (such as those paid by commercial banks on other types of savings deposits) could be used. Consequently, in certain instances displaced homeowners are currently provided differential payments which result in a windfall profit to such persons. In extreme cases use of the passbook rate can result in the computation of interest differential payments that exceed the unpaid balance of the displaced homeowner's mortgage. FHWA takes the position that, today, prudent and possibly conservative investors will select certificates of deposit, all-savers certificates or other higher rate deposit arrangements in lieu of passbook savings accounts, due to the much higher interest earned. Since passbook savings accounts no longer appear to attract the average saver, the 5½ percent discount rate embodied in the current regulation should be replaced by a higher rate which conforms to the present day financial market.

Accordingly, FHWA is amending 23 CFR 740.74(c)(4) to eliminate any reference to passbook savings accounts. Similar changes are being made in Appendix A to Part 740 which contains a "Format for Computation of Interest Payments." As amended, the regulation will be identical to the language in the statute.

This change gives the displacing agency the flexibility to utilize a discount rate based upon the interest rate paid on savings accounts other than passbook savings accounts, such as the rate paid on certificates of deposit by commercial banks. It is estimated that this change will reduce the average annual interest differential payments by approximately 40 percent.

Displaced homeowners will still be fully compensated for their increased interest costs, as required by the Uniform Relocation Act. This change merely eliminates unjustifiable windfalls that are possible under the current regulation because of the escalation of interest rates that have occurred since the regulation was promulgated.

Disposition of Comments

A notice of proposed rulemaking was published for comment in the **Federal Register** on September 14, 1981, (46 FR 45627). Twenty comments were received. These include seventeen from State highway agencies, one from a Federal agency, one from a city agency, and one from a consultant.

Comments generally expressed support for the proposed change in the regulation, or agreed that the regulation should be changed. Several of the comments recommended that the new mortgage should be reduced by the amount necessary to maintain the same monthly payment and term as the old mortgage, utilizing the new higher

mortgage interest rate. This method seems equitable, however, the Uniform Act is specific regarding the method of computation, and would need to be amended in order to adopt the mortgage pay down method suggested.

Several comments requested further guidance as to the rate of interest that should be used in lieu of that paid on passbook savings accounts. Several comments also opposed using interest rates paid on certificates of deposit or on other deposit arrangements where the funds cannot be withdrawn for a substantial period of time without incurring an interest penalty. One comment suggested that this amendment was not sufficient to authorize the use of rates paid on certificates of deposit in computing interest differential payments.

It is not the intent of FHWA to dictate the rate that should be used. The purpose of this amendment is to remove an impediment that was resulting in excessively high payments and to allow displacing agencies the flexibility to use more realistic rates.

We realize that there is considerable variation among commercial bank savings deposit rates, both within each bank, and between banks. In selecting the rate to use in computing an interest differential payment the displacing agency should insure to the best of its ability that the payment will be sufficient to fully compensate the displaced homeowner for the increased cost of his mortgage, as required by the Uniform Act. The needs of the displaced homeowner also should be considered in making this selection.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. This change will merely eliminate instances of overpayment to displaced homeowners who have qualified for the interest differential payment. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Gerald Starkweather of the program office at the address specified above.

(Catalog of Federal Domestic Assistance Program Number 20.205. 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

(23 U.S.C. 315; 42 U.S.C. 4601 *et seq.*; 49 CFR 1.48)

Accordingly, 23 CFR 740.74(c)(4) and Appendix A of Part 740 are amended to read as set forth below.

Issued on: February 8, 1982.

R. A. Barnhart,

Federal Highway Administrator.

PART 740—RELOCATION ASSISTANCE

1. Paragraph (c)(4) of § 740.74 is revised to read as follows:

§ 740.74 Replacement housing payments for 180-day owner who purchases.

* * * * *

(c) * * *

(4) *Discount rate.* The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

* * * * *

2. Appendix A to Part 740 is revised to read as follows:

Appendix A.—Format for Computation of Interest Payments Required Information

1. Outstanding balance of mortgage on acquired dwelling————$
2. Outstanding balance of mortgage on replacement dwelling————$
3. Lesser of Line 1 or Line 2————$
4. Number of months remaining until last payment is due for mortgage on acquired dwelling————
5. Number of months remaining until last payment is due for mortgage on replacement dwelling————
6. Lesser of Line 4 or 5————
7. Annual interest rate of mortgage on acquired dwelling————
8. Annual interest rate of mortgage on replacement dwelling (or, if it is lower, the prevailing annual interest rate currently charged by mortgage lending institutions in the general area in which the replacement dwelling is located) (percent)————
9. Prevailing interest rate paid on savings deposits by commercial banks (percent)————
10. If applicable, any debt service costs on the loan on the replacement dwelling, such as points paid by the purchaser which are not reimbursable as an incidental expense.————$

Developing of Monthly Payment Figures

A. Monthly payment required to amortize a loan of $——— (Line 3) in———months (Line 6) at an annual interest rate of———% (Line 7)————$

B. Monthly payment required to amortize a loan of———$ (Line 3) in———months (Line 6) at an annual interest rate of———% (Line 8)————$

C. Monthly payment required to amortize a loan of $———(Line 3) in———months (Line 6) at an annual interest rate of———% (Line 9)————$

Calculation of Interest Payment

Step 1—Subtract A from B:

Monthly payment based on rate for replacement dwelling (B)————$

Monthly payment based on rate for acquired dwelling (A)————$

Result (difference)————$

Step 2—Divide result (difference) of Step 1 by C (carry to 6 Decimal places)————$

Result (difference) from Step 1————$

Monthly payment based on savings rate (C)————$

Result (quotient)————

Step 3—Multiply outstanding balance of mortgage on acquired dwelling by result (quotient) of

Step 2:

Outstanding Balance (from Line 3)————$

Result (quotient) of Step 2×————

Result (product)————$

Step 4—Add to result (product) of Step 3 any debt service costs on the loan on the replacement dwelling:

Result (product of Step 3, first mortgage————$

Result (product) of Step 3, second mortgage [1]————$

Sum or difference, as applicable [1]————$

Add debt service costs on loan on replacement dwelling (Line 10)————$

Amount of interest payment————$

[FR Doc. 82-3874 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 207

[Docket No. R-82-957]

Multifamily Housing Mortgage Insurance Eligibility of Mortgages on Existing Projects

Correction

FR Doc. 82-2455 which appeared at page 4507 in the issue of Monday, February 1, 1982, was corrected at page 5886 in the issue of Tuesday, February 9, 1982. The correction which appeared on page 5886 of the issue of Tuesday, February 9, 1982, should have read as follows:

On page 4506, middle of second column, in the amendatory language for a "**§ 207.32a Eligibility of mortgages on existing projects.**" fourth line, "(1)(1)"

[1] If there is more than one outstanding mortgage on an acquired dwelling, the discounted value of each mortgage must be determined. To do this, a separate computation is made to each mortgage through Step 3. A consolidated Step 4 is then completed.

should read "(e)(1)", and in the fifth line, "(1)(2)" should read, "(e)(2)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: This rulemaking amends the regulations to remove the provisions that require segregation of the portion of an Outer Continental Shelf (OCS) oil and gas lease that is not included in a unit agreement. This rulemaking is necessary to implement the opinion of the Solicitor of the Department of the Interior (DOI) that the Secretary does not have the authority to require segregation of the unitized portion of a lease from the portion of the lease that is not unitized. The amendment allows the extension of the term of an entire lease when such extension is justified by development or production activities on any part of the lease, or on any part of a unit which includes part of the lease.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke (703) 860–7395, (FTS) 928–7395.

SUPPLEMENTARY INFORMATION:

Background

The rules on unitization in 30 CFR 250.50, implementing the OCS Lands Act Amendments of 1978, were published on May 2, 1980, and control leases issued after that date. These rules provided for the mandatory segregation of unitized portions of OCS leases from other portions of such leases. Segregation refers to the practice of separating that portion of a lease which is in a unit from that portion of the lease not in a unit, essentially forming two leases. After review of the OCS Lands Act, 43 U.S.C. 1331 et seq., the Solicitor of DOI issued Solicitor's Opinion M–36927, concluding that the Secretary does not have the legal authority to require segregation of unitized portions of leases from the remainder of the lease.

Comments

On August 20, 1981, the Department published a rule proposing to remove requirements for mandatory segregation of unitized portions of leases from the remainder of the lease. Sixteen comments and recommendations were received in response to the Notice of Proposed Rulemaking. Comments were received from oil and gas companies, public interest groups, and a Government Agency.

Difference Between Proposed Rule and Final Rule

A difference between the proposed rule and the final rule is the inclusion of the phrase "or portions of leases" and "in whole or in part" in the final rule to clarify that portions of leases, as well as whole leases, may be included in units.

Discussion of Comments

All of the commenters supported the proposed amendment. The commenters agreed with the legal analysis that mandatory segregation was outside the Secretary's authority and tended to undermine the intent of unitization, i.e. to promote the prompt and efficient exploration and development of OCS leases.

The majority of the commenters supported the change because it eliminated the situation which could occur under the current rules of having to conduct operations prematurely on a segregated portion of a lease in order to preserve a potentially productive area, even though operations were underway that would otherwise exend the lease. The commenters felt a lessee should have the discretion to develop a lease scientifically and systematically without being forced into premature, unnecessary, and potentially wasteful operations on a lease which is being successfuly developed or produced.

Several commenters requested a clarification in the regulations that operations on either the unitized or nonunitized portion of a lease would be sufficient to sustain the entire lease. These commenters felt that the proposed rule might be understood to deal only with the case in which operations on the unitized portion sustained the nonunitized portion of the lease. We agree that operations on a nonunitized portion of a lease sustains the entire lease, both unitized and nonunitized portions. We do not feel, however, that it is necessary to recite such a provision in this amendment dealing with units since the general rule in 30 CFR 250.35 specifically provides for the extension of the term of a lease as long as drilling or well-reworking operations are being conducted on a leased area and since the lease terms provide for an extension of the lease during production. It is not necessary to restate these provisions in the absence of segregation.

In the Notice of Proposed Rulemaking published on August 20, 1981, we proposed the deletion of the phrase "* * * or segregated portions of leases * * *" in the first sentence of § 250.50(b) and the first sentence of § 250.50(e).

A number of commenters requested that the words "* * * portions of leases * * *" be retained in this regulation in order to clarify that portions of a lease as well as an entire lease could be included in a unit. This has always been the Department's interpretation of the rules concerning unitization, and the final rules will retain this phraseology in order to avoid any ambiguity.

In response to the Department's solicitation for comments on all provisions of 30 CFR 250.50, comments were received on a number of other provisions principally relating to the timing of preproduction-unit adjustment and the sequence of events following expiration of a unit or elimination of a lease from a unit through adjustment. The Department appreciates these comments and will consider them as petitions for review of a rule under 43 CFR 14.6.

Authors: Platte Clark, Jane Roberts, and David Schuenke, Minerals Management Service, Department of the Interior, (703) 860–7395.

Regulatory Analysis and Small Entity Flexibility Analysis

The Department has determined that this final rule is not a major action and does not require the preparation of a regulatory impact analysis under Executive Order 12291. In addition, the Department has determined that this rule will not have a significant economic effect on a substantial number of small entities and does not, therefore, require a small entity flexibility analysis under the Regulatory Flexibility Act.

Dated: December 31, 1981.

Daniel N. Miller, Jr.,

Assistant Secretary of the Interior.

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

For the reasons set out in the preamble, 30 CFR Part 250 is amended as set out below:

1. Section 250.50 is amended by revising the first sentence of paragraphs

(b) and (e), and by revising paragraphs (g), (h) and (i) to read as follows:

§ 250.50 Authority and requirements for unitization.

* * * * *

(b) A unit area shall include the minimum number of leases or portions of leases required to permit one or more, or a portion of one or more, mineral reservoirs or potential hydrocarbon accumulations to be served by an optimal number of artificial islands, installations, or other devices necessary for the efficient exploration for or development and production of oil and gas or other minerals.* * *

* * * * *

(e) Drilling, production, and well-reworking operations performed in accordance with a unit agreement shall be deemed to be performed for the benefit of all leases that are subject in whole or in part to the unit agreement.* * *

* * * * *

(g) If a lease is subject in whole or in part to unitization, the entire lease shall continue in force for the term provided in the lease and as long thereafter as any portion of the lease remains part of the unit area, and as long as there are operations within the unit area which serve to continue the lease in effect.

(h) Upon the expiration or termination of a unit agreement or when there is an adjustment of a unit area that results in the elimination of a lease or a portion of a lease from the unit agreement, each lease that was but is no longer subject in whole or in part to the unit agreement shall expire unless: (1) Its initial term has not expired, (2) drilling, production, or well-reworking operations are underway on the lease or portion of a lease, or (3) a suspension of production or operations has been ordered or approved for the lease or portion of a lease pursuant to 30 CFR 250.12.

(i) When a lease that is subject in whole or in part to a unit agreement is beyond the initial fixed term of the lease and unitized substances are not being produced, the lease shall expire unless: (1) The unit operator conducts a continuous drilling or well-reworking program designed to develop or restore the production of unitized substances, or (2) a suspension of operations has been ordered or approved in accordance with 30 CFR 250.12.

2. Section 250.50 is amended by removing paragraph (j).

(43 U.S.C. 1334)

[FR Doc. 82-3979 Filed 2-12-82; 8:45 am]

BILLING CODE 4310-MR-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1883-7]

Approval and Promulgation of Implementation Plans; Indiana State

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) announces today final rulemaking on revisions to the Indiana State Implementation Plan (SIP). The revisions pertain to the Indiana new source review (NSR) plan. The revisions were submitted to EPA by the State to satisfy the requirements of Part D of the Clean Air Act (Act). EPA published a notice of proposed rulemaking on these revisions on March 27, 1980 (45 FR 20432). The notice of proposed rulemaking described the nature of the SIP revisions, EPA's proposed action, and requested comments from the State and public. Today EPA is taking final action on these revisions to the Indiana SIP approving Indiana's NSR plan.

EFFECTIVE DATE: This final rulemaking becomes effective on February 16, 1982.

ADDRESSES: A copy of the SIP revision, public comments on the notice of proposed rulemaking and EPA's evaluation and response to comments are available for inspection at the following address: U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Copies of the SIP revision are available at the following addresses:

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC 20408

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT: Robert Miller at the Region V address given above or telephone: (312) 886-6031.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and on October 5, 1978 (43 FR 46003), pursuant to the requirements of section 107 of the Clean Air Act, as amended in 1977, EPA designated certain areas in each Region V state as nonattainment with respect to National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP), sulfur dioxide (SO_2), carbon monoxide (CO), ozone (O_x), and nitrogen dioxide (NO_2).

Part D of the Act, added by the 1977 amendments, requires each state to revise its SIP to meet specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary NAAQS by December 31, 1982, or, under certain circumstances, by no later than December 31, 1987 for ozone and/or carbon monoxide. The criteria for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published July 2, 1979 (44 FR 35853), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

Indiana revised regulation APC-19 (State adopted on June 19, 1979) was submitted by the State on June 26, 1979. The regulation establishes statewide operating and construction permit requirements; registration requirements for specified facilities and emission control devices; new source review requirements for the prevention of significant deterioration (PSD) of air quality in attainment areas; requirements for offsetting of emissions in nonattainment areas; and requirements for source compliance by use of a "bubble" approach. Additionally, it establishes a State permit fee system for construction and operating permits.

In response to the decision of the U.S. Court of Appeals for the D.C. Circuit in Alabama Power Company v. Costle, EPA on August 7, 1980 amended its regulations for the prevention of significant deterioration of air quality. Pursuant to this action, Indiana is in the process of revising section 7 of APC-19 which deals with its prevention of significant deterioration program. Therefore, EPA is not rulemaking today on section 7 of APC-19.

In a March 27, 1980 notice of proposed rulemaking (NPR) (45 FR 20432), EPA reviewed APC-19; noted some general deficiencies in the submittal; and proposed to conditionally approve APC-19 if the State committed to correct the specified deficiencies on a schedule to be negotiated between the State and the EPA.

The State of Indiana submitted its response to the NPR on June 25, 1980. The response was directed at the conditions for approval. The State committed itself to revise APC-19 to remove EPA's objections and to submit the revised regulation to EPA by February 1, 1981. Subsequent to this commitment, EPA's August 7, 1980

rulemaking required additional changes to Indiana's regulations. On May 19, 1981 the State committed itself to submit its revised NSR regulation to EPA by November 1, 1981. The State submitted this revised regulation to EPA on October 21, 1981 meeting its commitment. Therefore, EPA is approving APC–19.

In addition to the State's responses, EPA received several other public comments on APC–19 in response to its March 27, 1981 NPR. The following identifies each relevant issue with EPA's proposed action, any public comments received, and EPA's final action.

Issue: Section 4(b)(2) of APC–19 contains a typographical error. It requires alternative analyses (section 172(b)(11)(A)) for the construction of hydrocarbon and carbon monoxide sources in nonattainment areas where an extension for attaining the NAAQS beyond 1987 has been requested. The correct date is 1982. EPA proposed to conditionally approve section 4(b)(2) if the State committed to correct this typographical error.

Response: The State committed to correct the typographical error by November 1, 1981.

Action: Indiana deleted the typographical error from its NSR program, effective October 23, 1981. Therefore, EPA is totally approving Indiana's alternative analysis program.

Issue: EPA requested that the State submit a determination from the Indiana Attorney General whether emission limitations contained in permits issued pursuant to regulation APC–19 have the force and effect of regulations in Indiana. EPA proposed that it must have such an assurance in order to approve APC–19 section 4(g), Permit Emission Limitations.

Response: The State submitted a copy of an Administrative Advisory letter from a Deputy Attorney General, dated December 31, 1979. The letter stated that "permits issued by the Indiana APCB have the force and effect of a rule or regulation under Indiana law." One commenter found that the Indiana Air Pollution Control Act and the Environmental Management Act provide that permits are enforceable.

Action: EPA is satisfied that the State can enforce most permit conditions. However, approval of APC–19 does not mean that EPA has approved in advance whatever emission limitation (or other permit condition) the State may adopt under APC–19, section 4(g). To become provisions of the applicable implementation plan, operating permit conditions, including emission limitations which are different from those specified in APC–13 and APC–23, need to be submitted to EPA as SIP revisions together with all necessary documentation as set forth in 40 CFR 51.6 and 51.13. APC–19 requires all operating permits to be submitted to EPA for its approval. EPA will take action on all such permits which contain requirements differing from those contained in the SIP.

Issue: Section 4(h) required a permit to be automatically issued if the State did not take final action on the permit within a specified time limit. EPA proposed to conditionally approve the regulation if the State committed to delete the "permit by default" provision.

Responses: The State agreed to delete the permit by default regulation from its new source review regulation. Several other commentors, however, felt that a time limit for administrative review is required to avoid excessive delay, and for due process under both the Indiana Constitution and the Constitution of the United States.

Action: The Agency feels that approval by default would not have ensured attainment and maintenance of the NAAQS, a fundamental requirement of the Clean Air Act, as amended.

Indiana deleted the permit by default provision from its NSR program effective October 23, 1981. Therefore, EPA is totally approving section 4(h) of APC–19.

Conclusion

EPA has reviewed the response from the State of Indiana and comments from the public on the proposed conditional approval of Indiana regulation APC–19. EPA has determined that the conditions for proposed approval specified in the March 27, 1980 NPR have been met and that none of the issues raised by commentors provide sufficient justification for EPA to change its proposed action. EPA therefore approves Indiana regulation APC–19, except for the sections which deals with PSD regulations. EPA will take action on the PSD sections at a future date.

Section 9 of Indiana Regulation APC–19, Compliance Using the Bubble Approach, is approved today by EPA because it requires that all individual bubbles approved by the State be submitted to EPA as SIP revisions. EPA is developing a "state generic bubble program" policy under which bubbles can be approved by the state without further SIP revision. Currently, states may use a generic bubble program for VOC emissions and, in limiting instances, for SO_2 and TSP emissions. EPA is considering the approval of additional circumstances under which a state generic bubble program is sufficient to satisfy the requirements of the Clean Air Act without the need for individual SIP revisions. Indiana may choose to exercise the option of adopting a generic bubble program at some later date.

EPA is making today's rulemaking effective immediately, because it imposes no new requirements on any source above those already required by the State and because it removes the construction restrictions of § 110(a)(2)(I) from certain areas.

Under Executive Order 12291, EPA must judge whether a regulatory is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not Major because it merely approves actions already taken by the State and imposes no new requirements on any source beyond those already imposed by the State. This action was submitted to the Office of Management and Budget (OMB) for review as required by the Order.

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

(Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

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

Dated: February 6, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMUGLATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, Subpart P—Indiana is amended as follows:

1. Section 52.770(c) is amended by adding subparagraph (24) as follows:

§ 52.770 Identification of Plan.

* * * * *

(c) * * *

(24) On June 26, 1979, the Governor submitted a revised new source review regulation, APC–19. Additional information and commitments were submitted on June 25, 1980 and May 19, 1981. EPA is not taking action on Section 7 of APC–19, Prevention of Significant deterioration.

2. Section 52.773 is amended by adding paragraph (c) as follows:

§ 52.773 Approval Status.

* * * * *

(c) The Administrator finds that Indiana's new source review strategy satisfies all requirements of Part D, Title 1 of the Clean Air Act as amended in 1977.

* * * * *

[FR Doc. 82-3865 Filed 2-12-82; 8:45 am]
BILLING CODE 6560-38-M

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40 CFR Part 52

[A-6-FRL 2029-6]

Approval and Promulgation of Revisions to Louisiana State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: On December 9, 1977, the Governor of Louisiana, after adequate notice and public hearing, submitted revisions to the Louisiana State Implementation Plan (SIP) for the control of air pollution. The submission included revisions to the Louisiana Air Control Regulations 18 through 30. On March 2, 1979 (44 FR 11798) EPA proposed approval of Regulations 18 through 30 except for Sections: 18.2, 18.4, 18.6.3, 19, 22, 24.6.1, 24.7.4, 24.9.1, 24.9.2, 26.3.1, 26.3.2, and 29. This notice approves the SIP revision to Louisiana Regulations 18 through 30, not including the above listed exceptions, and amends the Code of Federal Regulations (CFR) at § 52.970.

DATE: This rulemaking is effective March 18, 1982.

FOR FURTHER INFORMATION CONTACT: J. Ken Greer, Jr., Implementation Plan Section, Air and Hazardous Materials Division, EPA, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2742, FTS 729-2742.

SUPPLEMENTARY INFORMATION:

I. Background

On December 9, 1977, the Governor of Louisiana submitted to EPA revisions to the Louisiana SIP for the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS), which included revisions to the Louisiana Air Control Regulations 18 through 30. The revisions submitted included: (1) Minor and/or administrative changes requested by EPA and agreed to by the State, (2) regulations for the handling of facility malfunctions and upsets, (3) new regulations for controlling total suspended particulate (TSP) emissions, and (4) new regulations for controlling volatile organic compound emissions. The proposed rulemaking on the submitted revisions was published in the **Federal Register** on March 2, 1979 (44 FR 11798), and included a brief description of each revision. No public comments have been received on EPA's proposed actions.

II. Approval of SIP Revision

The regulations being approved today include:

(1) Regulation 18.0—Control of Air Pollution from Smoke—establishes emission standards for smoke emissions.

(2) Regulation 20.0—Refuse Incinerators—prohibits air pollution from the operation of refuse incinerators.

(3) Regulation 21.0—Emission of Particulate Matter from fuel burning equipment—limits the emissions of particulate matter from installations producing steam, hot water, hot air, or other indirect heating systems.

(4) Regulation 23.0—Control of Emissions from the Chemical Woodpulping Industry—limits the emissions of particulate matter and sulfur oxides from pulp manufacturing plants.

(5) Regulation 24.0—Emission Standards for Sulfur Oxides—limits the emissions of sulfur oxides from stationary sources.

(6) Regulation 25.0—Control of Carbon Monoxide Emissions (New Sources)—limits the emissions of carbon monoxide from stationary sources.

(7) Regulation 26.0—Emission Standards for the Nitric Acid Industry—limits the emissions of nitrogen oxides from nitric acid plants.

(8) Regulation 27.0—Prevention of Air Pollution Emergency Episodes—prohibits emissions that would contribute to the buildup of excess concentrations of air pollution.

(9) Regulation 28.0—Emission Standards for Particulate Matter and/or Suspended Particulate Matter, Horizontal Stud Soderberg Primary Aluminum Plants and Prebake Primary Aluminum Plants—limits emissions from aluminum plants.

(10) Regulation 30.0—Severability—indicates that each regulation is applicable as written, and the possible invalidation of one regulation does not affect another applicable regulation.

Certain sections of the Regulations 18-30 are not being acted on today because either the State has revised and resubmitted certain sections which EPA will act on in future rulemakings, or EPA has taken final action on certain regulations in previous rulemakings. The excepted sections are: 18.2, 18.4, 18.6.3, 19, 22, 24.6.1, 24.7.4, 24.9.1, 24.9.2, 26.3.1, 26.3.2, and 29. A brief description of the status of EPA's action on the excepted sections follows:

(1) Regulations 18.2, 18.4, 18.6.3, 24.6.1, 24.7.4, 24.9.1, 24.9.2, 26.3.1, and 26.3.2 concerning the control of malfunctions and upsets and the control of sulfur oxides emissions were revised and resubmitted to EPA by Louisiana in letters dated April 30, 1979 and October 23, 1980. EPA's actions on these revisions will be published in the **Federal Register** in the near future.

(2) Regulation 19 concerning Emission Standards for Particulate Matter, was approved by EPA on March 12, 1979 (44 FR 13479).

(3) Regulation 22 concerning the Control of Emissions of Volatile Organic Compounds, was approved by EPA on February 14, 1980 (45 FR 9903).

(4) Regulation 29 concerning the control of Fluoride Emissions from Phosphate Fertilizer Plants will be acted on by EPA under 40 CFR Part 62 in the **Federal Register** in the near future.

EPA's Action

EPA approves the revisions to Louisiana Regulations 18-30 as submitted on December 9, 1977 except for the sections: 18.2, 18.4, 18.6.3, 19, 22, 24.6.1, 24.7.4, 24.9.1, 24.9.2, 26.3.1, 26.3.2, and 29. As explained earlier in this notice, the exempted sections either have been approved by EPA in other notices already published, or EPA's actions will be published in the **Federal Register** in the near future.

Under section 307(b)(1) of the Clean Air Act, judicial review of this final rulemaking notice is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 19, 1982. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not Major because it merely approves revisions to existing State regulations.

This rule was submitted to the Office of Management and Budget for review under Executive Order 12291.

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that this notice will not have a significant economic impact on a substantial number of small entities since it imposes no new regulatory

requirements. This action only approves revisions to existing State regulations.

Notice.—Incorporation by reference of the SIP for the State of Louisiana was approved by the Director of the Office of the Federal Register on July 1, 1981.

(Section 110(a) of the Clean Air Act, as amended 42 U.S.C. 7410(a))

Dated: February 1, 1982.

Ann M. Gorsuch,

Administrator.

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:

1. In § 52.970, paragraph (c) is amended by adding a new paragraph (14) as follows:

§ 52.970 Identification of Plan.

* * * * *

(c) * * *

(14) Revisions to the Air Control Regulations 18.1, 18.3, 18.5, 18.6–18.6.2, 18.7, 20.1–20.8, 21.1–21.6.4, 23.0–23.4.2, 24.1–24.5, 24.6.2, 24.7–24.7.3, 24.8, 25.0–25.6.2, 26.0–26.2, 26.4–26.8.2, 27.0–27.5.4, 28.0–28.6.2 and 30.0, as adopted by the Louisiana Air Control Commission on November 30, 1977, were submitted by the Governor on December 9, 1977.

[FR Doc. 82-4003 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-4, 5-FRL-2049-1]

Interstate Pollution Abatement; Final Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Determination under Section 126 of the Clean Air Act (Interstate Pollution Abatement).

SUMMARY: Section 126 of the Clean Air Act establishes a procedure for any state or political subdivision to petition the EPA to determine whether a major pollution source in another state is causing or will cause an interstate air pollution problem. Such a petition was filed on May 14, 1979 by Jefferson County, Kentucky with respect to sulfur dioxide (SO_2) emissions from the Public Service of Indiana (PSI) Gallagher power station in Floyd County, Indiana. A notice was published March 17, 1980 (45 FR 17048) and a public hearing was held April 17, 1980 to determine the interstate impact of the PSI Gallagher station. On July 30, 1981 (46 FR 38937), the Administrator proposed her determination that emissions from the Gallagher plant do not cause impermissible interstate pollution in Jefferson County, Kentucky. EPA has carefully reviewed the comments received in response to its proposal, and today the Administrator is denying Jefferson County's petition.

DATE: The Administrator's determination is effective February 16, 1982.

ADDRESSES: Technical and background documents and all public comments received are available for public inspection at the following addresses:

Docket No. 5A–80–9, Central Docket Section, West Tower Lobby, Gallery 1, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Library, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365

Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, File B 115

Air Pollution Control District of Jefferson County, 914 E. Broadway, Louisville, Kentucky 40204

Division of Air Pollution Control, Kentucky Department of Natural Resources and Environmental Protection, W. Frankfort Office Complex, U.S. 127 South, Frankfort, Kentucky 40601

Air Pollution Control Division, Indiana State Board of Health, 1330 W. Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT:

Barry Gilbert, Air Programs Branch, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365, (404) 881–3268

Robert Miller, Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION:

State Implementation Plan Background

On May 14, 1973, EPA approved Indiana's SO_2 State Implementation Plan (SIP) for Floyd County (38 FR 12698). A regulation in this SIP set an SO_2 emission limitation for PSI's Gallagher Station of 1.2 pounds of SO_2 per million British Thermal Units (lbs/MBTU) of actual heat input. Final compliance with the rule was required by April 1, 1975. In 1974 Indiana adopted new SO_2 regulations that exempted Gallagher from the 1.2 lbs/MBTU emission limit, but required the facility to install an ambient monitoring system and to maintain an emergency two week supply of fuel adequate to meet a 1.2 lbs/MBTU SO_2 emission limitation. The fuel was to be used upon Indiana's order during periods of adverse meteorological conditions. Technical support information submitted by Indiana demonstrated that exempting Gallagher from control would not interfere with attainment and maintenance of the SO_2 air quality standards either in Indiana or in Kentucky. In addition, an air quality modeling study established that Gallagher's contribution to high SO_2 levels in Kentucky was minimal. On August 24, 1976, EPA approved the regulations (41 FR 35676).

Indiana submitted a revised statewide SO_2 attainment strategy and revised SO_2 regulations to EPA on June 26, 1979.

The regulations established an SO_2 emission limit of 6.0 lbs/MBTU heat input for fossil fuel fired power plants throughout most of the state, including the Gallagher plant in Floyd County. For the Gallagher plant, the 6.0 lbs/MBTU limit approximately represents the status quo (uncontrolled) emission level. EPA proposed to approve the attainment strategy and regulations on March 27, 1980 (45 FR 20432).

The Kentucky SIP approved by EPA in 1972 required the three major power plants in Jefferson County, Kentucky, to limit their SO_2 emissions to 1.2 lbs/MBTU. These limitations are still in effect in Kentucky. However, several units at these plants are not yet required to be in compliance with the 1.2 lb limit. The three Louisville Gas and Electric (LG&E) power plants are on phased compliance schedules that require the units at each plant to come into compliance over a period of years with the last units not complying until 1985.

Section 126 Petition

Section 126(b) of the Clean Air Act authorizes any state or political subdivision to petition the Administrator of EPA for a finding that any major source emits or will emit an air pollutant in violation of section 110(a)(2)(E)(i) of the Clean Air Act. Section 110(a)(2)(E)(i) prohibits any stationary source from emitting any air pollutant in amounts which will prevent another state from attaining and maintaining any primary or secondary national ambient air quality standard (NAAQS). It also prohibits a source from interfering with measures required to be included in the SIP to prevent significant deterioration of air quality or to protect visibility. After a public hearing, the Administrator either makes a finding that section 110(a)(2) (E)(i) is being violated or denies the petition.

On May 14, 1979, the Air Pollution Control District (APCD) of Jefferson County, Kentucky, filed a section 126 petition. In that petition, the APCD requested EPA to make a finding that SO_2 emissions from the Gallagher plant in Floyd County, Indiana, were preventing attainment and maintenance of the SO_2 standards in Jefferson County, Kentucky. The APCD also asked EPA to make a finding that, once Jefferson County becomes an attainment area for SO_2, Gallagher's emissions will interfere with Prevention of Significant Deterioration (PSD) measures required to be included in the SIP.

EPA's Response to Jefferson County's Petition

In order to study the issues raised by Jefferson County, EPA funded a computer dispersion modeling study to assess the impact of SO_2 emissions from selected facilities in the Louisville Interstate Air Quality Control Region (AQCR). On March 17, 1980 (45 FR 17049), EPA announced the availability of the modeling study, notified the public that it would hold a hearing on Jefferson County's petition, and requested comments on criteria by which the petition should be decided. EPA held the hearing on April 17, 1980 in Louisville, Kentucky. The EPA hearing panel included David G. Hawkins, then Assistant Administrator for Air, Noise and Radiation; Lydia Wegman, Attorney, Office of General Counsel; Susan Weinstein, then Attorney, EPA Region V Office of Regional Counsel; Bill Phillips, Attorney, EPA Region IV Office of Regional Counsel; David Kee, Director, EPA Region V Air Management Division; and Thomas Devine, Director, EPA Region IV Air and Waste Management Division.

On May 2, 1980 (45 FR 29313), EPA extended the public comment period until May 19, 1980. On August 20, 1980 (45 FR 55482) the public comment period was reopened until September 3, 1980, so that the affected parties could review and comment on the transcript of the hearing. Information submitted by PSI and Jefferson County established the need for a revision to EPA's diffusion modeling study. Revised modeling was conducted and on March 9, 1981 (45 FR 15743) the modeling was made available for public review and comment. The modeling used in this section 126 determination is the revised modeling.

On April 8, 1981, the public comment period closed. The hearing panel evaluated all of the data submitted by Jefferson County and the commentors, the transcript of the public hearing, and EPA's modeling data. Based on this evaluation, the panel recommended that the Administrator deny Jefferson County's petition. On July 30, 1981 (46 FR 38937) EPA notified the public of the panel's recommendation and proposed to deny Jefferson County's petition. The agency also announced a set of informational criteria intended to guide states and political subdivisions in filing Section 126 petitions. Those suggested criteria were:

(1) A demonstration establishing the existence and geographic boundaries of the nonattainment or PSD area which is the subject of the petition;

(2) A demonstration that achievement of ambient air quality standards or of measures necessary to prevent significant deterioration or to protect visibility, is prevented by the named out-of-state sources; and

(3) An indication that sources within the petitioning state(s) which impact on PSD and nonattainment areas have been adequately controlled.

EPA is today taking final action to deny the petition and is responding to public comments on both the determination and the general criteria for Section 126 petitions.

EPA's Modeling Analysis

EPA's determination is based upon dispersion modeling data which was set forth in detail in the proposed rule. 46 FR 38937. Relying upon data on Gallagher's maximum emissions during 1976, the agency calculated the air quality impacts of the Gallagher plant in Jefferson County. The modeling results were as follows:

(1) No violations of the annual SO_2 standard occur in Jefferson County;

(2) The Gallagher plant's maximum contribution to predicted violations of the 24-hour SO_2 standard is small (3%);

(3) The Gallagher plant's maximum contribution to predicted violations of the 3-hour SO_2 standard is also very small (less than 1%);

(4) No violations of any SO_2 standard are predicted in Jefferson County after Kentucky sources come into compliance with applicable emission limits.

Since Gallagher's contributions to violations in Jefferson County are so small, the agency has concluded that emissions from the Gallagher plant are not preventing attainment and maintenance of the SO_2 standards in Kentucky. Furthermore, since there are no PSD requirements presently applicable to Jefferson County, Gallagher's emissions cannot interfere with PSD measures required to be in the Kentucky SIP. The visibility provisions are not applicable in Jefferson County. In sum, Gallagher does not cause interstate pollution in Jefferson County in violation of section 110(a)(2)(E)(i), and the agency therefore denies the County's petition.

Response to Comments

EPA has received comments at various stages of this proceeding. On July 30, 1981, when it published its proposed determination (46 FR 38937) EPA announced that an analysis of the record, including public comments, had been prepared and was available for review. Responses to comments up to the date of that proposal are contained in that analysis (Doc. #5A–80–9) and remain available for review at the addresses listed at the front of this notice. EPA has now received comments on the proposed determination from several states, the Province of Ontario, Jefferson County, PSI and other utilities. The following is a response to the significant comments received since July 30, 1981.

1. The Administrator's Criteria

Numerous comments were submitted concerning the three criteria published in the proposed determination. First, it should be generally noted that the criteria are only intended to guide petitioners in providing information that is useful in a review of a Section 126 petition. They are by no means exhaustive, nor do they represent requirements or prerequisites for an affirmative determination under section 126. Depending on the individual facts surrounding each petition, the Administrator anticipates that each of these criteria, and perhaps additional information, will have varying significance in each determination.

Given the wide variation among interstate pollution problems and the complexity of these problems, the Administrator considers it inappropriate at this time to issue regulations which would constitute a rigid formula for section 126 determinations. However, the agency intends to publish a further explanation and refinement of these informational guidelines in the near future.

Comment. Numerous commentors said that the criteria should have been the subject of formal or informal rulemaking procedures pursuant to the Administrative Procedure Act (APA).

Response. As stated above, the criteria are only intended to provide general guidance to future petitioners under Section 126 regarding information that the Administrator expects to find relevant to a determination. The issuance of informal criteria or guidelines such as these which are not binding on EPA or on the public are not subject to rulemaking requirements. See

e.g., "Pacific Gas & Electric Co. v. EPA", 506 F.2d 33 (D.C. Cir. 1974).

Comment. Several commentors said that the criteria were too restrictive because they placed too great a burden on a petitioning state. In particular, several commentors felt that the second criterion implied that a petitioning state must show that the emissions from the out-of-state source are the *sole* cause of the violation. Commentors concluded that under this criterion a demonstration that emissions from the out-of-state source contribute to a violation is inadequate to prevail in a Section 126 proceeding. On the other hand, another commentor supported a stringent literal interpretation of Section 126, and argued that a source should be found to "prevent attainment" only if violations would not occur "but for" the contribution of the out-of-state source.

Response. The Clean Air Act itself provides no guidance on the levels of pollution which constitute prevention of attainment and maintenance of the NAAQS. However, the legislative history of Section 126 suggests that a strict literal interpretation of the term "prevent" is not intended. Because a state is usually able to set tighter emission limits on its own sources to offset the effects of interstate pollution, a literal interpretation of the term "prevent" would rarely allow relief under Section 126. This interpretation would fail to address interstate inequities that Congress intended Section 126 to rectify. See S. Rep. No. 95–127 at 41–42 and H.R. Rep. No. 95–294, 95th Cong., 1st Sess., May 12, 1977, 330.

In this proceeding, however, the definition of the term "prevent" is not critical to the determination. The Administrator has found that the SO_2 violations predicted to occur in Kentucky are primarily caused by Kentucky sources. A three per cent contribution to violations by an out-of-state source, as is the case here, is not sufficiently significant to support an affirmative finding under any reasonable interpretation of the statutory language.

Comment. One commentor stated that the three criteria are statutory prerequisites for an affirmative finding under Section 126.

Response. As discussed above the three criteria are not statutory prerequisites, but are only intended to provide guidance for the submittal of relevant information.

Comment. Several commentors complained that the third criterion requiring a demonstration that in-state sources have been "adequately controlled" is ambiguous.

Response. Since the criteria are intended to be general information guidelines applicable to all Section 126 petitions, it is not possible or desirable to establish precise requirements. Criterion 3 is simply intended to elicit information that will make possible a comparison of emission limits applicable in a petitioning state and in another state. The "adequacy" of in-state controls is a relative matter and may vary depending on a number of circumstances, possibly including social and economic factors. Furthermore, in this proceeding the adequacy of the current emission limits for Kentucky sources is not at issue since EPA has determined that Gallagher does not significantly affect Kentucky's air quality.

Comment. Several commentors stated that EPA's criteria have improperly shifted the burden of proof from EPA to petitioning states in making a section 126 determination. These commentors argued that section 126(b) requires no information beyond an allegation of interstate pollution, and that it is the responsibility of EPA to gather adequate information to make the proper determination. Another commentor disagreed and claimed that the burden of proof should be on the petitioner to support an affirmative finding.

Response. The Clean Air Act does not explicitly allocate the burden of proof to any party in a Section 126 proceeding. However, the statutory requirement for a public hearing prior to an agency determination appears to contemplate that petitioners will present oral and written evidence to EPA concerning section 126 petitions. In publishing a set of informational criteria EPA has not required anything further from petitioners but has simply offered guidance on the types of information the agency considers most relevant.

Furthermore, section 307(d) requires EPA to follow informal rulemaking procedures in reaching a final determination under section 126. Case law on informal rulemaking under the APA also suggests that the proponent of a rule, or the party with access to necessary information, normally carries the burden of proof or the burden of coming forward with information. *See* K. Davis, *Administrative Law Treatise* § 6.15 (2d Ed. 1978), and cases cited therein. At least in the initial stages of a Section 126 proceeding, it is the petitioner who is the proponent of agency action, and who has access to information forming the basis of its petition. Hence it is reasonable for the Administrator to request information from petitioners. However, EPA also recognizes its duty under section 307(d) to compile factual data in support of its ultimate determination, and it has done so in this proceeding.

In any case, since the criteria do not enumerate prerequisites to an affirmative finding on interstate pollution, they do not impose any burden of proof on petitioners. Publication of the criteria was a reasonable exercise of the administrator's broad discretion to interpret and implement the Act.

Comment. One commentor stated that announcing the criteria at the time of the proposed determination, after having held the hearing, violated due process. The commentor stated that EPA should have used as criteria the issues outlined prior to the hearing.

Response. EPA's introduction of the criteria in the Notice of Proposed Rulemaking did not violate due process. First, the Administrator specifically found that the issues included in the criteria had already been addressed at the hearing in this proceeding. 46 FR at 38939. Second, the parties were given an adequate opportunity to comment on the criteria, and this satisfied the procedural requirements of informal rulemaking under the Clean Air Act and the APA. See, e.g., "Ethyl Corp. v. EPA," 541 F.2d 1, 49–50 (D.C. Cir. 1976). Finally, the Supreme Court has held that a statutory requirement for a "hearing" may be satisfied by an opportunity to submit written comments. "U.S. v. Florida East Coast Railway Co.," 410 U.S. 224 (1973). Therefore even if Section 126 were interpreted as requiring a hearing on every aspect of a Section 126 proceeding, EPA has satisfied this requirement by accepting written comments on the criteria. In light of these facts, and since the commentor did not cite any specific prejudice arising from publication of the criteria after the hearing, EPA believes that it has met the requirements of due process and the Clean Air Act.

2. Statutory Issues

Comment. Several commentors argued that the Administrator need not find that the NAAQS have been violated to make an affirmative Section 126 determination. They claimed that the proper test was stated in the March 17, 1980 **Federal Register** Notice (45 FR 38937), *i.e.*, whether the emissions from another state have a "substantial adverse impact" on a petitioning state's efforts to develop a SIP or create a margin for growth.

Response. The commentor's point is moot since under either test Gallagher's air quality impact in Jefferson County is

too insignificant to constitute a violation of Section 126.

Comment. One commentor objected to EPA's proposed finding that emissions from Gallagher do not interfere with PSD provisions and urged the Administrator to make a finding on the plant's potential impact on future PSD requirements in Jefferson County.

Response. Jefferson County is a nonattainment area for SO_2, and the PSD regulations are not applicable. Consequently the Gallagher plant cannot interfere at this time with PSD requirements in Jefferson County. Section 126 only prohibits interference with PSD measures required by the Clean Air Act, and therefore EPA need not review possible future impacts on regulations not yet in place. "See State of Connecticut v. EPA," 656 F.2d 902 (2d Cir. 1981). Furthermore, Gallagher's emissions will not consume any future PSD increment since its emissions at the time the baseline date is set will be included in the baseline air quality in Jefferson County.

Comment. One commentor asserted that Section 126 only allows EPA to consider actual emissions in determining the air quality impacts of the Gallagher plant.

Response. Nothing in Section 126 precludes consideration of allowable emissions since its prohibition extends to emissions which may occur in the future. This clearly includes emissions allowable under a SIP. As reflected in the record the Gallagher and Kentucky plants were modeled at both actual and allowable emission levels. Since Gallagher's actual emissions and its allowable emissions under state regulations are roughly equivalent, this distinction made no difference in calculating Gallagher's air quality impact.

3. EPA's Modeling Analysis

Comment. Another commentor stated that the modeling should have been based on actual operating conditions rather than maximum operating conditions.

Response. In calculating the potential air quality impacts of a source it is necessary to consider maximum operating capacity unless there is an enforceable restriction on operating load. Since there is nothing to prevent Gallagher from operating at 100 percent capacity, Gallagher was modeled at maximum loading to determine its maximum potential impacts. Furthermore, the commentor's point is not relevant in this proceeding since modeling Gallagher at actual operating capacity would not change the determination that its emissions do not violate Section 126.

Comment. One commentor expressed concern that EPA revised both the PSI Gallagher stack base elevation (from 410 to 460 feet) and the 24-hour SO_2 background concentration (from 37 to 17 $\mu g/m^3$) in its final modeling. The commentor argues that U.S. Geological Survey topographical maps indicate that the 410 foot ($\pm$ 5 feet) elevation is correct and that there was no justification for these changes in the record.

Response. In the original modeling, EPA did use a stack base elevation of 410 feet. PSI surveyed the area, however, and provided certification that the correct elevation was 460 feet, which EPA used in the final modeling. The survey of the area is considered as accurate as a reading taken from a topographical map. Furthermore, subsequent modeling performed by EPA indicates that the effect of the increased stack base elevation on predicted concentrations in Kentucky is not significant. A modeling run based upon a 410 foot stack base elevation would result in a predicted violation of 443 $\mu g/m^3$ of which Gallagher's contribution would be 15 $\mu g/m^3$ or 3%, as opposed to EPA's predicted violation of 441 $\mu g/m^3$ using a 460 foot stack base elevation, of which Gallagher's contribution is 13 $\mu g/m^3$ (also 3%).

The State of Indiana revised the 24-hour background estimate from 37 $\mu g/m^3$ to 17 $\mu g/m^3$. EPA accepted this revision as a reasonable estimate of background concentration because it is consistent with regional backgrounds recommended in EPA's monitoring guidelines. Furthermore, EPA's modeling analyses show that use of the higher 37 $\mu g/m^3$ background level does not result in additional predicted violations of the SO_2 standard and would not affect the relative significance of Gallagher's contributions to predicted violations.

Comment. One commentor rejected EPA's conclusion that because other industrial sources in Jefferson County have short stacks, their emissions have little impact at the location of predicted maximum concentrations from the Gallagher plant. The commentor claimed that its new modeling shows that industrial source emissions significantly change both the location and magnitude of predicted maximum SO_2 concentrations in Jefferson County.

Response. Though the commentor submitted the results of new modeling runs, it failed to submit the computer runs necessary to determine the validity of the modeling. However, EPA reviewed the modeling results and still considers it unlikely that industrial sources in conjunction with Gallagher's emissions are sufficient to cause violations of the NAAQS. First, significant source interaction is not expected since Gallagher's maximum impacts are predicted to occur several kilometers away from the area of highest impact from the industrial sources. The industrial sources' short stacks minimize their area of impact, and lessen the likelihood of interaction. Second, the maximum concentration caused by Gallagher in the vicinity of these sources is sufficiently low (407 $\mu g/m^3$ on a three hour basis) that contributions from other sources are unlikely to result in a total ambient concentration exceeding the secondary standard of 1300 $\mu g/m^3$.

Comment. One commentor performed new modeling with a revised emissions inventory, a different meteorological data base (including 1978), and additional receptors in order to investigate the effects of EPA's use of only one critical year of meteorological data, of allegedly excessive exit gas velocities, of a higher stack base elevation, and of a two kilometer receptor grid resolution in certain areas. The commentor contends that its modeling predicts multiple violations of the three-hour SO_2 standard in Kentucky caused solely by emissions from Gallagher.

Response. (a) EPA utilized five years of meteorological data (1973–77) and selected the year representing worst case conditions. Data from 1978 were not available at the time.

(b) The gas exit velocity utilized by the commentor was approximately one-half the value relied upon by EPA. As stated in the record, EPA determined the gas exit velocity for the Gallagher plant in a stack test performed in 1975. The record supports the conclusion that the design and operation of the Gallagher stack has not changed. Furthermore, the volume flow rate (a function of stack gas velocity and stack diameter) used by EPA for Gallagher is comparable to the rates observed at similar units.

(c) EPA did duplicate the commentor's modeling using the receptor grid provided, Louisville meteorological data from 1978, and a 410 foot stack base elevation. The results still demonstrated attainment of the SO_2 NAAQS though predicted concentrations were higher, and did not significantly alter Gallagher's predicted air quality impact in Jefferson County. Comment: One commentor stated that EPA's conclusion that a source emitting 3,200,000 tons per year (TPY) SO_2 has only a modest impact on sites in nearby Jefferson County is difficult to accept.

Response.. The Gallagher plant actually emits about 60,000 TPY SO_2 and has allowable emissions under state regulations of 150,000 TPY. EPA modeling indicates that Gallagher's emissions, actual or allowable, do not cause or significantly contribute to SO_2 NAAQS violations in Kentucky.

Comment. One commentor questioned why there is such a disparity in the results of modeling analyses conducted by Jefferson County and by EPA. The commentor claims that Jefferson County analyses showed that the Gallagher station would cause monitored concentrations in Kentucky to attain a level of 1434 ug/m^3, while the EPA analysis predicted concentrations below 1300 ug/m^3.

Response. The 1434 ug/m^3 3-hour level was calculated by EPA, not Jefferson County, to occur in Indiana, not in Kentucky. The highest levels calculated in Kentucky were well below 1300 ug/m^3.

Comment. One commentor objected to EPA's proposed approval of Indiana's 6.0 lbs/MMBTU emission limit for sources in Floyd County, including Gallagher (March 27, 1980, 45 FR 20432). Additionally, the commentor urged that EPA redesignate Floyd County nonattainment for SO_2.

Response. The commentor's objection to EPA's proposed approval of the 6.0 lb limit for Gallagher will be addressed in the context of the separate rulemaking on Floyd County. Any plan EPA approves for Floyd County must provide for attainment of the NAAQS. In any case, EPA's proposed action on Floyd County and its alleged duty to redesignate Floyd County to nonattainment are irrelevant to the validity of EPA's determination in this proceeding.

Final Determination

EPA has reviewed the record, including the new comments received, and finds that the Gallagher plant does not cause or substantially contribute to a violation of the SO_2 NAAQS in Kentucky either with or without further controls on the Kentucky sources. Additionally, EPA finds that the Gallagher plant does not interfere with measures necessary for the prevention of significant deterioration or the protection of visibility in Kentucky. Therefore Jefferson County's petition is denied.

Pursuant to the provisions of 5 U.S.C. section 605(b), I hereby certify that the attached determination will not have a significant economic impact on a substantial number of small entities. Today's action will impose no new requirements.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it imposes no new requirements.

This action has been sent to OMB for review as required by Executive Order 12291.

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today.

(Sec. 126 of the Clean Air Act, as amended (42 U.S.C. 7426))

Dated: February 5, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4005 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 81

[A-4-FRL-2030-4]

Designation of Areas for Air Quality Planning Purposes; Alabama and Kentucky: Redesignation of Ozone Areas

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of final rule.

SUMMARY: On November 20, 1981 (46 FR 57046), EPA announced that it was granting requests made by Alabama and Kentucky for the redesignation of certain counties from unclassifiable to attainment for ozone. These actions were taken on the basis of measured air quality data, and without prior proposal. EPA subsequently received a request for an opportunity to submit adverse comments on the actions. Accordingly, the Agency is withdrawing them. Elsewhere in today's **Federal Register**, EPA is proposing the redesignations and providing an opportunity to comment on the proposal.

EFFECTIVE DATE: These actions are effective on February 16, 1982.

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

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

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

FOR FURTHER INFORMATION CONTACT: Archie Lee of the Region IV Air Programs Branch at 404/881-3043 (FTS 257-3043).

SUPPLEMENTARY INFORMATION: On July 30, 1981, the Alabama Air Pollution Control Commission submitted one full season of ozone monitoring data collected at Murphy Hill, Alabama, and requested that it be used to redesignate Jackson and DeKalb Counties attainment for this pollutant. On April 28, 1981, the Kentucky Department for Natural Resources and Environmental Protection made a similar submittal and request with respect to eight counties in that State (Allen, Butler, Edmonson, Grayson, Hart, Logan, Simpson, and Warren). On November 20, 1981 (46 FR 57046), EPA, without prior proposal of its action, changed the attainment status designation of these ten counties from unclassifiable to attainment.

In the final rule making the redesignations, EPA advised the public that the effective date of the actions was deferred for 60 days (until January 19, 1982) to provide an opportunity to submit comments on them. EPA announced that if notice were received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun by proposing the actions and establishing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received notice that someone wishes to submit adverse comments on these redesignations. Accordingly, the Agency is today withdrawing them.

Elsewhere in today's **Federal Register**, EPA is proposing the redesignations requested by Alabama and Kentucky and soliciting comment on the proposal.

EPA is withdrawing these actions without providing prior notice and opportunity for comment. The Agency finds that it has good cause within the meaning of 5 U.S.C. 553(b) to proceed without notice and comment. Notice and comment would be impracticable in this case because EPA needs to withdraw its redesignations as quickly as possible in order to consider the comments which the public wishes to submit. Moreover, further notice is not necessary because EPA has already informed the public that it would follow this procedure if it received a request for an opportunity to comment. For the same reasons, EPA finds that it has good cause under 5

U.S.C. 553(d) to make this withdrawal immediately effective.

It should be noted that since the redesignations announced on November 20, 1981, did not alter the ozone attainment status tables of 40 CFR Part 81, today's withdrawal of the redesignations has no effect on 40 CFR Part 81 either. Since section 107(d)(1) of the Clean Air Act does not provide for EPA to make a formal distinction between unclassified and attainment in the case of an area's attainment status for ozone, these counties will continue to be included in the "Rest of State" as shown in the ozone tables of 40 CFR 81.301 and 81.318 as unclassified or better than the National Ambient Air Quality Standards (NAAQS) for ozone. The redesignation for sulfur dioxide for Webster County, Kentucky, announced in the same November 20, 1981 document is not affected by today's action.

Under Section 307(b)(1) of the Clean Air Act, judicial review of these actions is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before April 19, 1982.

Pursuant to the provisions of 5 U.S.C. section 605(b) I hereby certify that the present rule will not have a significant economic impact on a substantial number of small entities. This action only changes the attainment status of a limited number of areas from attainment for ozone to unclassifiable, and imposes no new requirements directly.

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

(Sec. 107, Clean Air Act (42 U.S.C. 7407))

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3585 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 86

[AH-FRL 2021-2]

Revised Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen (NO_x) for 1981 through 1984 Model Year Light-Duty Diesel Vehicles; Summary of Decision and Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes NO_x emission standards for 1981, 1982, 1983, and 1984 model year light-duty vehicles belonging to 18 diesel engine families for which I have granted waivers from the standard otherwise applicable under section 202(b)(6)(B) of the Clean Air Act, 42 U.S.C. 7521(b)(6)(B). I have determined that these engine families qualify under the statutory criteria for waiver of the NO_x standard in model years 1981, 1982, 1983 and 1984 as listed below. This action has the effect of setting interim NO_x standards at the level necessary to permit the manufacturers to use these 18 diesel engine families in the model years for which I have granted waivers.

EFFECTIVE DATE: March 18, 1982 except that this action shall be effective immediately for Vehicle Technology, Inc.

ADDRESS: Information relevant to this rule, including the document embodying my decision on the waiver applications in question, is contained in Public Docket EN-81-7 at the Central Docket Section of the Environmental Protection Agency (EPA), Gallery I, 401 M Street, SW., Washington, D.C. 20460, and is available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2 EPA may charge a reasonable fee for copying services. Interested parties may also obtain the decision document by contacting the Manufacturers Operations Division as indicated below.

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-2521.

SUPPLEMENTARY INFORMATION: Section 202(b)(1)(B) of the Clean Air Act (Act), 42 U.S.C. 7521(b)(1)(B), requires that regulations applicable to NO_x emissions from light-duty vehicles or engines manufactured during or after the 1981 model year shall contain standards which provide that such emissions from vehicles or engines shall not exceed 1.0 gram per vehicle mile (g/mi).

Section 202(b)(6)(B) of the Act authorizes the Administrator, upon application by any manufacturer, to waive the statutory NO_x standard for the 1981 through 1984 model years for any class or category of light-duty diesel vehicles or engines for which the administrator can make the required statutory findings. I must promulgate interim NO_x standards applicable to the subject light-duty diesel engine families for those model years for which I have granted waivers. Applications for these waivers were submitted by BMW of North America, Inc. (BMW); Chrysler Corporation (Chrysler); Ford Motor Company (Ford); Automobiles Peugeot (Peugeot); Vehicle Technology, Inc. (Vehicle Technology); Volkswagen of America (VW); and Volvo of America (Volvo). The statutory criteria, my determinations with respect to the vehicle models covered by the waiver applications, and my decision to grant the waiver applications appear in a consolidated decision document, which is incorporated by reference in this summary, and which may be obtained as noted above. In that decision, I have granted waivers covering the following 18 engine families for the model years noted:

WAIVERS GRANTED

Manufacturer	Model year	Engine family	Interim standard (g/mi)
BMW	1984	2.4 liter (L) turbocharged (TC).	1.5
Chrysler	1984	1.9L naturally aspirated (NA).	1.5
Ford	1984	2.4L-TC	1.5
Peugeot	1983, 1984	XD2S/XD3S-TC [1]	1.5
	1983, 1984	2.3L-NA-XD2C	1.2
	1983, 1984	1.9L-NA-XUD9	1.5
Vehicle technology.	1981, 1982, 1983	4-88 HTA	1.5
	1981, 1982, 1983	4-92 HTA	1.5
	1981, 1982, 1983	5-92 HTA	1.5
	1981, 1982, 1983	6-92 HTA	1.5
VW	1983, 1984	1.6L-TC-2250 pound inertia weight (IW).	1.3
	1983, 1984	1.6L-NA-2250 IW	1.3
	1983, 1984	1.6L-TC 2500 and 2750 IW [2].	1.4
	1983, 1984	1.6L-NA-2500 and 2750 IW [2].	1.4
	1983, 1984	2.0L-TC	1.5
	1983, 1984	2.0L-NA	1.5
Volvo	1983, 1984	2.4L-NA	1.5
	1983, 1984	2.4L-TC	1.5

[1] Peugeot's turbocharged engine family was previously designated as 2.3L-TC-XD2S.

[2] EPA previously designated VW's 2500 and 2750 IW class engine families (both turbocharged and naturally aspirated) as four separate engine families. VW requests that they now be classified as only two engine families.

For reasons specified in the decision document, I decided to grant waivers for the 18 engine families listed because I concluded, based on the information contained in the record, that waivers are necessary to permit the use of these diesel engines. Specifically, I have determined that the diesel engine families which have already received NO_x waivers for previous model years need waivers to avoid a significant risk that they will not be able to meet applicable emission standards during the remaining waiver period using technology expected to be available without encountering engine performance problems. I have also concluded that there is a substantial risk that the new engine families will not be able to meet emission standards during the waiver period without encountering

engine performance problems or that without a waiver they may exhibit increased levels of particulate emissions.

Granting waivers for these engine families will not endanger public health, because there will not a significant increase in ambient NO_x levels; moreover, denying these waivers could result in the production of diesel vehicles emitting more particulate matter, where evidence of health risks is, as yet, inconclusive. Finally, the manufacturers have demonstrated that these engine families meet the fuel economy and long-term air quality benefit criteria for receiving waivers.

Having decided to grant waiver applications for these 18 diesel engine families, I am simultaneously promulgating regulations adopting emission standards not permitting NO_x emissions of these engine families to exceed the stated levels in model years 1981, 1982, 1983 or 1984, as noted in the chart above.[3] The public has received an opportunity to comment on the waiver applications at issue, and I have considered these comments in making the decision which requires the promulgation of this rule. For this reason, I find that providing notice and an opportunity to comment on this rulemaking before final promulgation is unnecessary.

I find that good cause exists to make this rule effective immediately for Vehicle Technology. This will avoid the possibility of forcing Vehicle Technology to delay its introduction of 1981 and 1982 model year vehicles into commerce because it must wait to receive certificates of conformity for its four diesel engine families until this rule becomes effective. A delay could result in irreparable financial harm to this manufacturer. Moreover, these waivers relieve otherwise applicable restrictions. Otherwise, this rule will become effective March 18, 1982, for all of the other manufacturers receiving waivers by this decision.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA is required to determine whether a regulation will have a significant economic impact on a substantial number of small entities so as to require a regulatory flexibility analysis. The interim NO_x standards established by this rulemaking apply to seven automobile manufacturers, none of which are small entities. Therefore, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

Dated: February 2, 1982.

Anne M. Gorsuch,

Administrator.

[3] A September 25, 1981, **Federal Register** notice (46 FR 47222) incorrectly stated that Daimler-Benz A.G. had been granted waivers to a 1.5 g/mi NO_x standard in model years 1983 and 1984 for its 2.4L-turbocharged diesel engine family. The waiver has only been granted for its 2.4L naturally aspirated diesel engine family. This notice deletes reference to the turbocharged engine family.

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

For the reasons set forth above, Part 86, Subpart A, is amended as follows:

1. Section 86.081–8(a)(1)(iii) is revised to read as follows, effective March 18, 1982, except that the listing for Vehicle Technology, Inc. is added effective February 16, 1982.

§ 86.081–8 Emissions standards for 1981 model year light-duty vehicles.

(a)(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1981 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1981 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Standard (gpm)
General Motors Corp	5.7 liter (L)	1.5
	1.8L	1.5
Daimler-Benz AG	2.4L	1.5
	3.0L naturally aspirated (NA).	1.5
	3.0L turbocharged (TC)	1.5
AB Volvo	2.4L–NA	1.5
Peugeot	2.3L–TC–XD2S	1.5
Volkswagen AG	1.6L–NA–2250 pounds inertia weight (I.W.).	1.3
	1.6L–NA–2500 I.W.	1.4
	2.0L–NA–3000 I.W.	1.5
Nissan Motor Company	2.8L	1.5
Isuzu Motors, Ltd	1.8L	1.5
Vehicle Technology, Inc.	4–88 HTA	1.5
	4–92 HTA	1.5
	5–92 HTA	1.5
	6–92 HTA	1.5

2. Section 86.082–8(a)(1)(iii) is revised to read as follows, effective March 18, 1982, except that the listing for Vehicle Technology, Inc. is added effective February 16, 1982.

§ 86.082–8 Emissions standards for 1982 and later model year light-duty vehicles.

(a)(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1982 and later model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Model years	Standard (g/mi)
General Motors Corp.	1.8 liter (L)	1982, 1983, 1984	1.5
	4.3L	1982, 1983, 1984	1.5
	5.7L	1982, 1983, 1984	1.5
	EF–C	1983, 1984	1.5
Daimler-Benz AG.	2.0L	1984	1.5
	2.4L-naturally aspirated (NA).	1982, 1983, 1984	1.25
	3.0L–NA	1982	1.5
	3.0L-turbocharged (TC).	1982, 1983, 1984	1.5
AB Volvo	2.4L–NA	1982, 1983, 1984	1.5
	2.4L–TC	1983, 1984	1.5
Peugeot	2.3L–TC–XD2S	1982	1.5
	XD2S/XD3S–TC	1983, 1984	1.5
	2.3L–NA–XD2C	1982, 1983, 1984	1.2
	1.9L–NA–XUD9	1983, 1984	1.5
Volkswagen AG.	1.6L–NA–2250 pound inertia weight class (I.W.).	1982, 1983, 1984	1.3
	1.6L–TC–2250 I.W.	1982, 1983, 1984	1.3
	1.6L–NA–2500 and 2750 IW.	1982, 1983, 1984	1.4
	1.6L–TC–2500 and 2750 IW.	1982, 1983, 1984	1.4
	2.0L–NA	1982, 1983, 1984	1.5
	2.0L–TC	1982, 1983, 1984	1.5
Nissan Motor Company.	2.8L	1982, 1983, 1984	1.5
Isuzu Motors Ltd.	1.8L	1982, 1983, 1984	1.5
Renault	2.0L	1982, 1983, 1984	1.5
BL Cars, Ltd	2.4L–TC	1983, 1984	1.5
	3.6L–TC	1983, 1984	1.5
Chrysler Corp	1.9L–NA	1984	1.5
Ford Motors Company.	2.4L–TC	1984	1.5
BMW	2.4L–TC	1984	1.5
Vehicle Technology, Inc.	4–88 HTA	1982, 1983	1.5
	4–92 HTA	1982, 1983	1.5
	5–92 HTA	1982, 1983	1.5
	6–92 HTA	1982, 1983	1.5

(Secs. 202, 301(a), Clean Air Act, as amended (42 U.S.C. 7521, 7601(a) (Supp. I 1977))

Applications for Waiver of the 1981–1984 Model Year Oxides of Nitrogen Emission Standard for Light-Duty Diesel Motor Vehicles—Tenth Consolidated Decision of the Administrator

I. Introduction

This is the tenth decision EPA has issued under section 202(b)(6)(B) of the Clean Air Act, as amended (Act),[1]

[1] 42 U.S.C. 7521(b)(6)(B) (Supp. I 1977).

regarding applications from automobile manufacturers for waiver of the 1.0 gram per mile (g/mi) oxides of nitrogen (NO_x) emission standard in effect for 1981 and subsequent model year light-duty diesel vehicles and engines.[2]

As the introductions to previous NO_x waiver decisions explain, section 202(b)(1)(B) of the Act establishes the standards applicable to NO_x emissions from light-duty vehicles and engines manufactured during and after model year 1977.[3] This section requires the Administrator of the Environmental Protection Agency (EPA) to promulgate regulations containing standards which provide that NO_x emissions may not exceed 2.0 g/mi for model years 1977 through 1980, and may not exceed 1.0 g/mi for 1981 and later model years. Section 202(b)(6)(B) of the Act provides that, upon the petition of a manufacturer, the Administrator may waive the 1.0 g/mi NO_x standard to a level not to exceed 1.5 g/mi for any class or category of diesel-powered light-duty vehicles and engines manufactured during the four model year period beginning with model year 1981. In order to obtain a waiver, the manufacturer must show that the waiver is necessary to permit the use of diesel engine technology in the class or category of vehicles or engines for which it has requested a waiver. Moreover, the Administrator must determine:

(i) That such waiver will not endanger public health;

(ii) That such waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act (EPCA); and

(iii) That the technology has a potential for long-term air quality benefit and has the potential to meet or exceed the average fuel economy standard applicable under EPCA at the expiration of the waiver.[4]

On April 7, 1981, EPA published a notice in the **Federal Register** that provided interested light-duty diesel manufacturers with procedures for filing applications for waiver of the statutory NO_x emission standard for model years 1981 to 1984.[5]

In September 1981, EPA issued a waiver decision concerning applications from six manufacturers that were submitted in response to the April 7 notice.[6] This decision concerns additional waiver applications, most of which were submitted in response to that notice but too late to be considered in the September decision. The manufacturers considered in today's decision include BMW of North America, Inc. (BMW);[7] Chrysler Corporation (Chrysler);[8] Ford Motor Company (Ford); Automobile Peugeot (Peugeot); Vehicle Technology, Inc.; Volkswagen of America (VW); and Volvo of America, Inc. (Volvo).[9]

The public has had the opportunity to comment on these waiver requests.[10] I have made my decision on the basis of all relevant information available to me, including oral testimony, manufacturers' submissions, and the records from previous diesel NO_x waiver decisions. The materials submitted by the applicants, as well as other information otherwise included in the docket, may be found in EPA Public Docket EN-81-7. The records for the previous NO_x waiver decisions and for the particulate rulemaking proceedings are incorporated by reference in the record for this decision.[11]

II. Summary of Decision

I have decided to grant NO_x waivers for the following engine families for the model years specified:

[2] The preceding decisions or summaries of decisions were published as follows: 45 FR 5480 (January 23, 1980); 45 FR 34718 (May 22, 1980); 45 (FR 65490) (October 2, 1980); 46 FR 1599 (January 6, 1981); 46 FR 1603 (January 6, 1981); 46 FR 16325 (March 12, 1981); 46 FR 37247 (July 20, 1981); 46 FR 37508 (July 21, 1981); 46 FR 47222 (September 25, 1981).

[3] 42 U.S.C. 7521(b)(1)(B) (Supp. I 1977). *See* the first diesel NO_x waiver decision for a discussion of the statutory history leading up to this provision. 45 FR 5480, n. 1 (January 23, 1980).

[4] For a discussion of the Congressional purpose behind this provision, *see* the discussion accompanying notes 2 and 3 of the first decision at 45 FR 5480 (January 23, 1980). EPA published guidelines for the submission of applications under this waiver provision at 43 FR 30341 (July 14, 1978) (hereinafter "Guidelines").

[5] 46 FR 20705.

[6] 46 FR 47222 (September 25, 1981).

[7] BMW applied for a waiver in time to be considered in the earlier consolidated waiver decision (issued pursuant to the April 7, 1981, notice), but requested that its application be considered in this decision in order to give BMW more time to develop and submit emission test data. Letter from Karl-Heinz Ziwica, BMW, to D. Schloss, EPA, dated July 8, 1981.

[8] Chrysler submitted its application on September 22, 1981, and requested that its application be considered with this round of applications because Chrysler's request covers an engine family purchased from Peugeot whose engine family is being considered in this decision *See* Chrysler App.

[9] This decision uses the following abbreviated citations:

BMW App.—Application of BMW of North America, Inc. for Waiver of the 1984 Model Year NO_x Standard, dated April 15, 1981.

BMW Supp.—Letter from Karl-Heinz Ziwica, BMW, to Director, Manufacturers Operations Division, EPA dated May 4, 1981 (with attachments).

BMW Supp. II—Letter from Karl-Heinz Ziwica, BMW, to D. Schloss, EPA, dated July 8, 1981.

BMW Supp. III—Letter from Karl-Heinz Ziwica, BMW, to Michael Chernekoff, EPA dated September 15, 1981 (with attachments).

Chrysler App.—Letter from C. M. Kennedy, Chrysler, to Charles N. Freed, EPA, dated September 22, 1981.

Chrysler Supp.—Letter from C. M. Kennedy, Chrysler, to Michael Chernekoff, EPA, dated September 28, 1981.

Ford App.—Application of Ford Motor Company for Waiver of the 1984 Model Year NO_x Standard, dated May 26, 1981.

Ford Supp.—Letter from K. M. Brown, Ford, to Deborah Schloss, EPA, dated July 21, 1981.

Ford Comments—Letter from K. M. Brown, Ford, to Charles N. Freed, EPA, dated August 11, 1981.

Ford Supp. II—Letter from M. J. Schwarz, Ford, to Jerry Schwartz, EPA, dated October 5, 1981.

Peugeot XD2S/XD3S App.—Automobiles Peugeot Application for Waiver of the 1983-1984 NO_x Emission Standard, dated May 14, 1981.

Peugeot XUD9 App.—Automobiles Peugeot Application for Waiver of the 1983-1984 NO_x Emission Standard, dated July 13, 1981.

Peugeot XD2C App.—Automobiles Peugeot Application for Waiver of the 1983-1984 NO_x Emission Standard, dated July 16, 1981.

Vehicle Technology App.—Application of Vehicle Technology, Inc. for Waiver of the 1981, 1982 and 1983 NO_x Standard, dated July 27, 1981.

VW App.—Volkswagen of America Application for Waiver of the 1983 and 1984 NO_x Emission Standards for Light-Duty Diesel Engines, dated July 16, 1981.

VW Supp.—Letter from Wolfgang Groth, VW, to Charles Freed, EPA, dated August 28, 1981 (with attachments).

Volvo App.—AB Volvo Application for Waiver of NO_x Emission Standards for Light-Duty Diesel Engines for 1983 to 1984, dated April 27, 1981.

Volvo Supp.—Letter from William Shapiro, Volvo to Mike Chernekoff, EPA, dated August 14, 1981 (with attachments).

Volvo Supp. II—Memorandum from William Shapiro, Volvo, to Mike Chernekoff, EPA, dated August 24, 1981.

[10] EPA held a public hearing on July 23, 1981. *See* 46 FR 35126 (July 7, 1981). Only one witness, Mr. Clarence Ditlow III, representing the Center for Auto Safety, testified. *See* "Transcript of Proceedings" dated July 23, 1981 (hereinafter "Transcript"); Letter from Clarence M. Ditlow III, Center for Auto Safety, to Deborah Schloss, EPA, dated July 30, 1981 (with attachments) (hereinafter "CAS Supplement"). Ford submitted comments responding to the Center's testimony at the public hearing. *See* Ford comments. Comments were also submitted to the record by Mr. Ernest A. Beutler. *See* Letter from Ernest A. Beutler, to Director, Manufacturers Operations Division, dated July 17, 1981. EPA held a second public hearing on October 21, 1981, to hear testimony regarding Chrysler's request. *See* 46 FR 49611 (October 7, 1981). No testimony was offered at this latter hearing.

[11] The records for these decisions are contained in Public Dockets EN-79-3, EN-80-3, EN-80-6, EN-80-15, EN-80-21, EN-81-4 and OMSAPC-79-3 and can be found in EPA's Central Docket Section, Gallery I, 401 M St., SW, Washington, D.C. 20460. Copies of materials in these dockets may be obtained by writing to this address at Mail Code (A-130).

WAIVER APPLICATIONS GRANTED

[Table I]

Manufacturer	Model years	Engine family	Interim standard (g/mi)
BMW	1984	2.4 liter (L) turbocharged (TC)	1.5
Chrysler	1984	1.9L	1.5
Ford	1984	2.4L-TC	1.5
Peugeot	1983, 1984	XD2S/XD3S-TC	1.5
	1983, 1984	2.3L-naturally aspirated (NA)-XD2C	1.2
	1983, 1984	1.9L-NA-XUD9	1.5
Vehicle	1981, 1982, 1983	4-88 HTA	1.5
Technology	1981, 1982, 1983	4-92 HTA	1.5
	1981, 1982, 1983	5-92 HTA	1.5
	1981, 1982, 1983	6-92 HTA	1.5
VW	1983, 1984	1.6L-TC-2250 pounds inertia weight (IW)	1.3
	1983, 1984	1.6L-NA-2250 IW	1.3
	1983, 1984	1.6L-TC-2500 and 2750 IW	1.4
	1983, 1984	1.6L-NA-2500 and 2750 IW	1.4
	1983, 1984	2.0L-TC	1.5
	1983, 1984	2.0L-NA	1.5
Volvo	1983, 1984	2.4L-TC	1.5
	1983, 1984	2.4L-NA	1.5

As discussed more fully below, I have concluded that the applications covering these engine families meet each of the statutory criteria for receiving a waiver for the model years noted. I am prescribing an interim NO_x standard of up to 1.5 g/mi for each engine family granted a waiver as shown in the table above.[12]

III. Discussion

A. *Assessing the Need for Waivers.* Section 202(b)(6)(B) of the Act expressly assigns to an applicant the burden of showing that the waiver is necessary to permit the use of diesel engine technology in a particular class or category of vehicles or engines. The major issue I must address under this criterion is whether the applicant has shown that, unless I grant the waiver, the engine family which the waiver request covers will not reasonably be able to meet applicable emission standards, even with the addition of any device, equipment or aspect of diesel engine technology presently available or expected to become available during the period covered by the waiver request.[13]

1. *Applicants' Positions Summarized.* To support the contention that effective control technology is not available, each waiver applicant has provided information concerning the measures it has been exploring in its efforts to meet the 1.0 g/mi NO_x standard along with other applicable emission standards.[14] Manufacturers plan to utilize two basic strategies in their efforts to meet the 1.0 g/mi NO_x standard. One is to decrease the level of NO_x formation during combustion through engine modifications.[15] The second major strategy is the use of some form of exhaust gas recirculation (EGR).[16]

a. *BMW.* BMW seeks a waiver for a 2.4L turbocharged diesel engine family that it plans to introduce in the 1984 model year.[17] BMW maintains that, without a NO_x waiver, it cannot meet the 0.6 g/mi particulate standard.[18] It also states that the high rate of EGR needed to meet a 1.0 g/mi NO_x standard will adversely affect other emissions, fuel economy, and driveability.[19]

In order to meet the 1.0 g/mi NO_x standard in conjunction with the particulate standard, BMW states that it is attempting to optimize the engine and EGR system, and to develop a particulate trap system.[20] BMW states, however, that its trap system is in a very early stage of development and it cannot predict when particulate traps will be ready for use on its vehicles.[21]

b. *Chrysler.* Chrysler applied for a waiver for model year 1984 for a 1.9L engine that it is purchasing from Peugeot.[22] Chrysler states that this engine family will be introduced beginning in model year 1984 as an optional power plant in certain Chrysler vehicles.[23] Chrysler states further that, under the terms of its contract with Peugeot, Peugeot is totally responsible for design of the 1.9L engine and emission control system. Additionally, Peugeot informed Chrysler that technology necessary to meet a 1.0 g/mi NO_x standard for this engine family is not expected to be available until at least model year 1985.[24] Chrysler has indicated that it presently does not have the capability to produce a diesel engine family for the same proposed use and that it also presently does not have the capability to make modifications to Peugeot's engine family such that this engine family could meet a 1.0 g/mi NO_x standard by model year 1984.[25] Chrysler therefore states that it must rely on Peugeot's emissions testing and has incorporated by reference Peugeot's application for its 1.9L-NA engine family.[26]

c. *Ford.* Ford applied for a waiver for model year 1984 for a 2.4L turbocharged engine family that it plans to purchase from BMW. Ford states that, under its arrangement with BMW, it will purchase a complete engine package; the arrangement stipulates that the engines must conform to all EPA requirements.[27] The engine family will be included in a 4,000 pound maximum inertia weight vehicle class.[28] Ford states that it must rely on emission testing performed by

[12] Certain engine families produced by VW and Peugeot have received waivers to interim standards less than 1.5 g/mi. *See* Table I, *supra*, and note *82, infra.*

[13] *See* Guidelines, at 30342. See also the additional information requested in EPA's April 7, 1981 **Federal Register** notice, 46 FR 47222. The applicable statutory standards are 0.41 g/mi hydrocarbon (HC), 3.4 g/mi carbon monoxide (CO), and 1.0 g/mi NO_x. Beginning with the 1982 model year, the light-duty diesel vehicle particulate standard of 0.6 g/mi took effect. That standard becomes 0.2 g/mi as of the 1985 model year. *See*, Standard for Emission of Particulate, Regulation for Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks, 45 FR 14496 (March 5, 1980) (hereinafter "Particulate Rulemaking").

[14] In addition to the 1.0 g/mi NO_x standard, light-duty diesel manufacturers are concerned specifically about meeting the 0.6 g/mi particulate standard that became effective beginning in the 1982 model year.

[15] The term "engine modifications" is used in this decision to denote various changes in engine design that affect NO_x emissions. These "engine modifications" include changes in combustion chamber design, changes in the fuel injection system and various changes and adjustments to other engine parameters intended to improve combustion.

[16] For a description of the basic theory behind diesel EGR, *see* 45 FR at 5482, n. 18 (January 23, 1980).

[17] BMW submitted data for this engine family corresponding to two inertia weight classes—3,375 pounds and 4,000 pounds. BMW's application states that the inertia weight class is 3,500 pounds for BMW vehicles, and 4,000 pounds for "other applications." BMW App. at 1. BMW and Ford have entered into an agreement whereby BMW will supply Ford with its 1984 model year 2.4L turbocharged engine family for use in 4,000 pound inertia weight Ford vehicles. *See* notes 27 to 30, and accompanying text, *infra.*

[18] BMW App. p. 2.

[19] *Id.* at pp. 2, 129; BMW Supp; BMW Supp. III.

[20] BMW App. p. 122.

[21] *Id.* BMW states that two problems it must overcome in its trap development are excessive exhaust back pressure, which adversely affects driveability, and lack of trap durability during burn-off of accumulated particulate matter. *Id.* at p. 130.

[22] Chrysler App. The engine Chrysler is purchasing is Peugeot's 1.9L-NA engine which is also the subject of this waiver request. *See* text accompaning notes 31-35, *infra.*

[23] *Id.* These vehicles will be Chrysler "K-cars," which will be within the same 2500-2750 pound inertia weight class as the vehicles in which Peugeot plans to use its own 1.9L engines. *See* Chrysler Supp.

[24] *Id. See also* Peugeot XUD9 App.

[25] Chrysler Supp.

[26] Chrysler App.

[27] Ford Supp.

[28] Ford App., Attachment.

BMW and refers EPA to BMW's applications for this data.[29] Ford has further indicated that it presently does not have the capability to produce a diesel engine for this vehicle and also that it does not have the capability to make engine modifications such that this engine family could meet a 1.0 g/mi NO_x standard during the requested wavier period.[30]

d. *Peugeot.* Peugeot seeks a waiver to 1.2 g/mi for its 2.3L naturally aspirated ("XD2C") engine family, and to 1.5 g/mi for its XD2S/XD3S turbocharged and its 1.9L naturally aspirated ("XUD9") engine families for model years 1983 and 1984.[31] Peugeot asserts that technology is not presently available to enable these engine families to meet a 1.0 g/mi standard, along with emission standards for other pollutants, in its production vehicles.[32]

Peugeot has concluded that, in order successfully to meet all emission standards for model years 1983 and 1984 with acceptable vehicle driveability and emission durability, it will need more sophisticated EGR technology, since its current system has reached "optimal limit."[33] Peugeot indicated that it has been working on several new EGR systems, but asserts that no advanced system will be available for use on production vehicles during the requested waiver period,[34] and states that it will use this time to attempt to resolve the various problems it has experienced to date in meeting emission standards.[35]

e. *Vehicle Technology.* Vehicle Technology[36] has requested NO_x waivers to 1.5 g/mi in the 1981, 1982, and 1983 model years for its 4–88 HTA, 4–92 HTA, 5–92 HTA and 6–92 HTA turbocharged diesel engine families.[37] Vehicle Technology states that it purchases its diesel engines and is completely dependent on the diesel engine manufacturers to provide technology to enable the engine to meet emission standards.[38] Vehicle Technology states that compliance with the 1981 statutory standards is not possible using the unmodified engines provided by the manufacturers.[39] Further, Vehicle Technology concludes that no technology is currently available for purchase and integration into its vehicles to enable them to meet applicable emission standards in model years 1981–1983.[40]

Vehicle Technology identified the following optional strategies for meeting all applicable emission standards in model years 1984 and 1985: (1) Adjustment of injection timing to control NO_x without the use of EGR, and the use of a catalyst to reduce HC emissions, and (2) use of EGR and injection timing modulation.[41] Some sort of after-treatment will be required under either strategy in order to meet the 0.2 g/mi particulate standard applicable in model year 1985.[42] Vehicle Technology indicated that it has recently contacted several emission controls manufacturers to arrange further testing and to obtain equipment needed to enable it to comply with applicable emission standards at the end of the waiver period.[43]

f. *VW.* VW seeks waivers for six engine families for model years 1983 and 1984 to interim NO_x standards ranging from 1.3 to 1.5 g/mi. After reassessing its original schedule for meeting a 1.0 g/mi NO_x standard, VW indicated that it cannot meet its schedule and it will now require waivers for these engine families.[44]

VW's approach to NO_x control with its smaller 1.6L engines is combustion chamber modifications and changes to the fuel injection system.[45] VW decided on this approach because it concluded that the addition of EGR to small diesel engines results in unacceptable driveability due to loss of power as well as emission and part durability problems.[46] VW states that it has not yet been able to lower NO_x emissions to 1.0 g/mi using only engine modifications on its smaller diesels,[47] and asserts that it needs additional time to further refine the smaller diesel engines.[48]

On its 2.0L engines, VW states that it will most likely require EGR to meet a 1.0 g/mi NO_x standard.[49] VW notes that particulate and HC emissions tend to rise with the application of EGR, but states that it is evaluating two new EGR systems to overcome these problems.[50] However, VW maintains that neither system is ready for production because of problems with part and emission durability.[51] Thus, VW concludes that it needs waivers, as requested, to give it sufficient lead time to overcome these difficulties.[52]

g. *Volvo.* Volvo requests waivers of the 1.0 g/mi NO_x standard in model years 1983 and 1984 to interim standards of 1.5 g/mi NO_x for two diesel engine families—a 2.4L-naturally aspirated and a 2.4L-turbocharged—that it is purchasing from Volkswagen.[53] Volvo states that its diesel engine program is relatively new and therefore it must purchase its engines from Volkswagen.[54] As a result, it has not yet succeeded in developing the expertise to enable its vehicles to meet a 1.0 g/mi NO_x standard.[55] Thus, Volvo requests these waivers to enable it to market its diesel vehicles and to afford it additional lead time, and development and manufacturing experience, to develop technology to meet all applicable

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[29] Ford App. p. 1. *See* note 17, *supra.*

[30] Ford Supp. II.

[31] EPA previously granted Peugeot NO_x waivers for model years 1981 and 1982 for the XD2S (45 FR 34718 (May 22, 1980)) and for the XD2C (46 FR 37508 (July 21, 1981)). The XUD9 is a new engine family that Peugeot plans to introduce in model year 1983.

[32] Peugeot XD2C App. 8; Peugeot XD2S/XD3S App. 8; Peugeot XUD9 App. 11. Peugeot is presently using a "step-by-step" EGR emission control system on its XD2C engine family, and an "electropneumatic" EGR system on its XD2S/XD3S engine family. Peugeot XD2C App. pp. 2, 3; Peugeot XD2S/XD3S App. pp. 2, 3. Peugeot states that no technical problems are encountered with these systems, but they are insufficient to permit these two engine families to meet the 1.0 g/mi NO_x standard and 0.6 g/mi particulate standard in production. Peugeot XD2C App. 56, 58; Peugeot XD2S/XD3S App. 2. Peugeot also plans to use the electropneumatic EGR system in its XUD9 engine family but states that this equipment is not sufficient to meet the 1.0 g/mi NO_x standard. Peugeot XUD9 App. 2.

[33] Peugeot XD2C App. pp. 2, 3; XD2S/XD3S App. pp. 2, 3.

[34] Peugeot XD2C App. pp. 3, 19, 20, 56; XD2S/XD25 App. pp. 3, 31, 38, 39, XUD9 App. pp. 5, 24, 26.

[35] Peugeot XD2C App. p. 14; XD2S/XD3S App. p. 14.

[36] Vehicle Technology is a small company that refits U.S.-built passenger cars with diesel engines that it purchases from outside suppliers. These vehicles are sold primarily as taxicabs in the New York City area. Vehicle Technology App. pp. 3, 4.

[37] Vehicle Technology plans to obtain these four engine families from Stabiliment Meccanici V. M. S. P. A., of Italy. The 4–88 HTA, designation describes a four-cylinder, 88mm bore size engine family. The remaining three engine family designations (4–92 HTA, 5–92 HTA and 6–92 HTA) describe, respectively a four-cylinder, five-cylinder and six-cylinder engine family each with 92mm bore. Aside from the number of cylinders and bore size, these four engine families are of identical design. Vehicle Technology App. p. 4.

[38] Vehicle Technology App. p. 3, 11. Vehicle Technology asserts that it is without the technical and financial capacity to make modifications to the engine families such that these engine families could meet 1.0 g/mi NO_x standard during the requested waiver period.

[39] *Id.* p. 7.

[40] *Id.* pp. 7, 8.

[41] *Id.* pp. 22–23.

[42] *Id.* p. 23.

[43] *Id.* pp. 3, 23.

[44] VW App. p. 1.

[45] VW App. pp. 9, 10.

[46] *Id. See also* VW Application for Waiver of the 1981 and 1982 NO_x Emission Standard, dated February 1980, at p. 45.

[47] *Id.*

[48] *Id.* at p. 10.

[49] *Id.* at p. 9.

[50] *Id.* at p. 10.

[51] *Id.*

[52] *Id.* at pp. 2, 10.

[53] Volvo received a waiver of the 1.0 g/mi NO_x standard for the 2.4L-naturally aspirated engine family to a 1.5 g/mi NO_x standard in model years 1981 and 1982. 45 FR 5480 (January 23, 1980). Volvo intends to introduce the turbocharged version in the United States in model year 1983. Volvo App. p. 12.

[54] Volvo App. p. 6.

[55] *Id.*

emission standards by the 1985 model year.[56]

Specifically, Volvo asserts that at the current stage of development for both the naturally aspirated and turbocharged 2.4L engine families, high rates of EGR are needed to reduce NO_x emissions to the 1.0 g/mi level.[57] Volvo states that at these high rates of EGR, it has observed heavy soot deposits in both naturally aspirated and turbocharged engines, even at low mileage.[58] While the naturally aspirated engine family has achieved emissions just under 1.0 g/mi NO_x in low mileage testing,[59] Volvo asserts that there is a high risk of inability to comply with the 1.0 g/mi NO_x standard because of engine durability problems, inexperience with the EGR system, and the potential for production variability of emission control capabilities in production.[60] Volvo states that it has no system capable of achieving the 1.0 g/mi NO_x standard in production.[61]

In order to overcome these problems, Volvo is investigating the use of fully flexible (electronic) EGR and fuel injection systems.[62] However, Volvo states that the necessary components will not be available from suppliers during the waiver period.[63]

2. *Methodology.* In making these waiver determinations, I have made an assessment of available NO_x control technology and technology likely to become available during the waiver period to determine their effect on engine durability and exhaust emissions. I have made my assessment based on a review of the information contained in the public record, including testimony given at EPA's two public hearings on these requests.[64]

As indicated in the **Federal Register** notice in which EPA announced consolidated proceedings for consideration of NO_x waiver applications, I have also evaluated the economic and technological risks faced by applicants in attempting to resolve difficulties in achieving NO_x emission control during the waiver period, and benefits they could realize if waivers were granted for the maximum waiver period (through model year 1984) instead of for a lesser period.[65]

3. *Engine Families for Which Waivers are Necessary.* I have determined that all the applicants have shown that waivers are necessary to permit the use of diesel engine technology for the engine families in question.

For the nine new engine families (out of the total of 18 families currently under consideration), I have determined that waivers through model year 1984 are necessary because of risks involved if the applicants are required to meet a 1.0 g/mi NO_x standard using new technology with which they may have little or no experience in production. Waivers through model year 1984 [66] where requested will permit the manufacturers to concentrate their resources and development efforts on meeting a single set of standards in model year 1985.

The remaining nine engine families have already received NO_x waivers for earlier model years and the applicants have demonstrated a significant continuing risk that they will be unable to meet the 1.0 g/mi NO_x standard and the 0.6 g/mi particulate standard using presently available technology, or technology likely to be available during the waiver period. As discussed above, the applicants have raised concerns over NO_x and particulate emission control capabilities, durability, and other problems that may seriously impede their ability to market these diesel vehicles under an unwaived NO_x standard. Waivers through model year 1984 could provide the necessary lead time to permit the development of more advanced NO_x control technologies capable of meeting applicable emission standards.

I have concluded therefore, that waivers are necessary for BMW, Chrysler, Ford, Volvo, Peugeot, and Vehicle Technology to market their new diesel vehicle models in the model years for which they have requested waivers. Specifically, BMW has demonstrated that there exist significant risks of being unable to meet other regulated emission standards in use, most notably the particulate emissions standard, without a waiver in model year 1984.[67]

Similarly, because Ford will be utilizing BMW's 2.4L-TC diesel engine in 4,000 pound IW class vehicles in model year 1984,[68] my determinations regarding BMW's demonstrations also apply to Ford. Ford does not have the capability to produce its own diesel engine for this vehicle, nor does it have the capability to make engine modifications so as to enable this engine family to meet a 1.0 g/mi NO_x standard during the waiver period requested.[69]

Volvo has demonstrated that its relatively new diesel engine program is experiencing significant difficulties adopting EGR technology sophisticated enough for its 2.4L-TC diesel engine

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[56] *Id.* at pp. 6, 9.

[57] *Id.* at p. 12.

[58] *Id.* at pp. 12, 13.

[59] *Id.* at p. 12.

[60] *Id.* at p. 14. *See also* Volvo Supp. Volvo hopes to be in a position to market on a limited basis the naturally aspirated version with EGR in California in the 1983 model year as a test market for these vehicles—with, according to Volvo, an attributable cost premium and fuel economy penalty.

[61] *Id.*

[62] *Id.* at p. 13.

[63] *Id.* at pp. 13, 15.

[64] *See* note 10, *supra.*

[65] 46 FR 20705, 20706 (April 7, 1981).

[66] Vehicle Technology has requested waivers only through model year 1983. Hence, I am granting it waivers only through model year 1983.

[67] BMW has stated that an advanced EGR system suitable to meet emission standards in model years 1984 and 1985 is well into the development stage, but that development of a particulate matter-trap system needed to bring down particulate emissions is still in very early stages. BMW App. p. 122. Data submitted by BMW indicate significant increases in hydrocarbon (HC), carbon monoxide (CO) and particulate emissions as well as reduced driveability at the high EGR rates necessary to meet a 1.0 g/mi NO_x standard. Some data indicate that at this high EGR rate, HC and particulate emissions exceed applicable standards.

Specifically, early tests of prototype vehicles in the 4000 IW class using EGR have shown that when calibrated to meet 1.0 g/mi, as opposed to 1.5 g/mi, these vehicles cannot meet the 0.6 g/mi particulate standard, and have demonstrable increases in CO and HC emissions (even above the applicable standard in some instances) as well as a significant decrease in fuel economy. BMW App. p. 139; BMW Supp. p. 5. Later tests of 4000 IW class vehicles using a modified EGR calibration indicate similar increases in emission levels of other pollutants, as well as fuel economy losses, though to a lesser extent than at the original calibration. Particulate emissions from two test cars corresponding to BMW's "city test" procedure averaged 0.50 g/mi and 0.521 g/mi respectively when calibrated to meet a 1.0 g/mi NO_x standard—about double the particulate emissions when compared to vehicles calibrated to meet a 1.5 g/mi NO_x standard. BMW Supp. III. Early test data corresponding to 3375 IW class vehicles using EGR have shown that when calibrated to meet 1.0 g/mi NO_x, as opposed to 1.5 g/mi NO_x, CO and HC emissions are increased (to levels just below the applicable standards in some instances), and show a decrease in fuel economy. BMW App. p. 139; BMW Supp. Particulate data was not available from BMW. Supp. III. However, BMW asserts that when the high EGR rate necessary to meet a 1.0 g/mi NO_x standard is used, particulate emissions are nearly double (though in some tests just below the 0.6 g/mi standard) those observed when an EGR rate necessary to meet a 1.0 g/mi NO_x standard is used. BMW App. p. 2; BMW Supp.; BMW Supp. III. BMW further asserts that the data corresponding to the 4000 IW class vehicles is more representative of its actual planned production as production volume of this type will be approximately ten times greater than that of the 3375 IW class. BMW Supp. III. Finally BMW asserts that driveability of its vehicles is reduced at the higher EGR rates. BMW App. p. 2. The record does not provide any indication of how BMW might solve its problems before model year 1985. Thus, given the increases in particulate and other emissions and reduced vehicle driveability if the waiver is denied, as well as the possibility that BMW might not meet other emission standards if the waiver is denied, the risks of an erroneous or inaccurate decision denying the waiver outweigh the potential environmental harm of granting the waiver. *C.f. International Harvester* v. *Ruckelshaus,* 478 F. 2d 615 (D.C. Cir. 1973).

[68] Ford App.

[69] Ford Supp. II. *See also* text accompanying note 30, *supra.*

family to meet a 1.0 g/mi NO_x standard in model years 1983 and 1984.[70]

Peugeot has also demonstrated that its new diesel engine family—the XUD9 diesel engine family—will not be able to meet a 1.0 g/mi NO_x standard in model years 1983 and 1984 using the EGR system that it will have available for those model years.[71] Similarly, because Chrysler will be utilizing this Peugeot engine family in vehicles within the same weight class, my determinations with regard to this Peugeot engine family also apply to Chrysler.[72] Chrysler does not have the capability to produce a diesel engine for the same proposed use, nor does it have the capability to make modifications to Peugeot's engine so as to enable it to meet 1.0 g/mi NO_x standard.[73]

Vehicle Technology provided information that it risks failure to meet all applicable emission standards in model years 1981 through 1983 with its four diesel engine families—the 4–88 HTA, 4–92 HTA, 5–92 HTA and 6–92 HTA engine families.[74]

For the nine engine families that have previously been granted waivers in earlier model years, Peugeot, VW and Volvo have demonstrated that technology is still not available to meet the 1.0 g/mi NO_x emission standard and that such technology is not likely to be developed and applied during the period for which waivers have been requested.

Information submitted by Peugeot shows that the EGR systems used in its XD2S/XD3S–TC and XD2C–NA engine families are not sufficiently developed to achieve a 1.0 g/mi NO_x standard without unsatisfactory effects on other vehicle performance parameters.[75]

VW has demonstrated that its engine families remain unable to meet the 1.0 g/mi NO_x standard in model years 1983 and 1984 despite its earlier projections.[76]

Volvo has demonstrated that its 2.4L–NA diesel engine family will suffer unacceptable engine durability problems when its EGR rate is calibrated to meet a 1.0 g/mi NO_x standard.[77]

Peugeot, Volvo and VW have all indicated that more advanced technology will be required in order for diesel engine families to meet a 1.0 g/mi NO_x standard, and all have stated that the waivers would give them the extra lead time to prepare this technology for production.[78]

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[70] As noted earlier, Volvo purchases diesel engines from Volkswagen. *See* text accompanying note *53, supra*. Early emissions data from the turbocharged engines indicate that with its present EGR system, Volvo cannot meet a 1.0 g/mi NO_x standard without substantial HC deterioration to levels above the applicable standards, as well as significant fuel economy deterioration, relative to its engines' capabilities without EGR. Volvo App., Enclosure 2. According to Volvo, durability testing on its turbocharged engine had to be discontinued after approximately 27,500 miles due to major engine failure. Volvo Supp. At that mileage, Volvo indicated that there existed significant soot deposits in the EGR system, air-intake system and in the engine oil. Volvo App. p. 13. Volvo believes that, theoretically, it can achieve its emission targets by employing a fully flexible (electronic) EGR system combined with fuel injection, but that such technology is not available from its suppliers for use in its 1983 and 1984 model year vehicles. Volvo App. p. 13.

[71] Peugeot's XUD9 engine family will employ the electropneumatic-type EGR system installed on Peugeots's XD2S turbocharged engine family for which EPA previously granted waivers for model years 1981 and 1982, and for which I am today granting waivers for model years 1983 and 1984. Peugeot stated that at the high EGR rates necessary to bring NO_x emissions down to a 1.0 g/mi NO_x standard, engine wear, soot deposits in the intake system and oil contamination result. Lowering the EGR rate to what Peugeot has determined to be its optimal level eliminates many of these durability problems. However, data indicate that this system could not meet a 1.0 g/mi NO_x standard at this lower rate. Peugeot XUD9 App. pp. 19, 26, 27, 32, 33, 91–112. More advanced EGR systems which Peugeot could install on this engine family are in the development stage and will not be available for model years 1983 and 1984. Peugeot XUD9 App. pp. 11, 12, 19, 51.

[72] Chrysler App.; Chrysler Supp. *See also* note 23, *supra*.

[73] Chrysler Supp. *See also* text accompanying note 25, *supra*.

[74] Vehicle Technology purchases its diesel engines and installs them without modification due to its limited financial and production capacity. Vehicle Technology App. pp. 3, 11. *See also* note 38, *supra*. Data and other information submitted by Vehicle Technology indicate that these engine families, as available from the manufacturer (without EGR), cannot meet all applicable emission standards for the requested waiver period, and that neither technology nor hardware is currently available for purchase and integration by Vehicle Technology to enable its engine families to meet those standards. Vehicle Technology App. pp. 7, 11–12, 17. Vehicle Technology indicated further that it is pursuing plans to purchase emission control components, which could include the use of EGR, for use on its engine families in later model years. Vehicle Technology App. p.3.

[75] Peugeot has asserted that further improvement to its electropneumatic-type EGR system (which is installed in its turbocharged diesel engines that received waivers to 1.5 g/mi NO_x for model years 1981 and 1982) is impossible, as it has reached its optimal limits. Peugeot XD2S/XD3S App. pp. 2–3. *See also* note 71, *supra*. Peugeot further asserts that vehicles whose EGR systems were modified for the purpose of attempting to meet the 1.0 g/mi NO_x standard experienced unacceptable drivability (jolts, lack of acceleration, abundant blue smoke at low load). Peugeot XD2C/XD3C App. p. 3.

Peugeot had been experimenting with a hydropneumatic EGR system for use in 1983–1984 model year turbocharged diesels, but this system has been rejected due to inability to solve major problems such as high potential for fuel leaks and consequent burning, high smoke level and poor driveability. Peugeot XD2S/XD3S App. pp. 31, 38. Development of more advanced electronic EGR system, to be used in conjunction with injection timing, is underway for Peugeot's turbocharged diesels but will not result in technology sufficiently developed for use during the waiver period. Peugeot XD2S/XD3S App. pp. 4, 31.

EPA recently granted Peugeot's application for a waiver for its XD2C engine family for the 1982 model year on grounds that this engine family could not simultaneously meet the 1.0 g/mi NO_x standard and the 0.6 g/mi particulate matter standard. Additionally, Peugeot has indicated that further improvement to its step-by-step-type EGR system (which is used on the XD2C engine family) is impossible as it, too, has reached its optimal limit. Peugeot XD2C App. pp. 2–3. As was the case with the 1982 model year XD2C engine family, durability emission data associated with this engine family for model years 1983 and 1984 indicate that it cannot meet the 1.0 g/mi NO_x standard while also meeting the 0.6 g/mi particulate standard. HC emission and fuel economy deterioration are also associated with calibrating this engine family to meet a 1.0 g/mi NO_x standard. Peugeot XD2C App. pp. 25, 133–185. Experimentation and development of more advanced electronic EGR technology—the same systems Peugeot has proposed for use in the turbocharged diesels—cannot be translated into application on this engine family during the requested waiver period. Peugeot XD2C App. pp. 4, 19, 20, 56.

[76] Data and other information submitted by VW indicate that the 2250 pound inertia weight (IW) 1.6L diesels—both naturally aspirated and turbocharged—cannot meet 1.0 g/mi NO_x without the introduction of EGR. However, with the application of EGR, NO_x emissions are reduced to levels marginally below 1.0 g/mi, but with a corresponding substantial increase in HC emissions and significant driveability as well as emission and part durability problems. VW App. pp. 4–5, 10, 21. VW has, therefore, made combustion chamber modifications which have only slightly improved HC and NO_x performance, rather than introduce EGR with its attendant problems. VW App. pp. 4, 21.

Data corresponding to the higher inertia weight 1.6L engine families—both naturally aspirated and turbocharged versions—indicate deteriorations similar to that occurring in the lighter inertia weight vehicles, but show higher emission rates. NO_x emissions are greater than 1.0 g/mi even with EGR. VW App. pp. 5, 6, 9, 10, 21, 22.

Data corresponding to VW's 2.0L naturally aspirated and turbocharged engine families indicate that, for the most part, they cannot meet 1.0 g/mi NO_x even with EGR. When EGR is introduced, VW has indicated that emission and part durability problems exist particularly with the EGR valve pin. VW App. pp. 6–7, 9–13, 21–24.

[77] Low mileage emission data submitted by Volvo indicate that NO_x emissions can be reduced to a level marginally below the 1.0 g/mi NO_x standard using a proportionally-controlled EGR system, though CO emissions and fuel economy suffered (when compared to no EGR). Volvo App. Enclosure 2:1. However, durability testing data of the naturally-aspirated vehicles indicate a 50 percent increase in particulate matter emissions as well as major engine durability problems, e.g., heavy soot deposits in the air intake system after only 3750 miles; unacceptable wearing of the piston rings and bearings; unacceptable lubricating oil consumption; blow-by; and smoke, when compared with no EGR. Higher HC and CO emissions were also indicated. Volvo App. pp. 12–13, Enclosure III; Volvo Supp.; Volvo Supp. II. Volvo stated that it hopes to be able to market on a limited basis its naturally aspirated diesel engine family in California in model year 1983 using a proportionally controlled EGR system calibrated to meet a 1.0 g/mi NO_x standard in hopes to gain testing experience. Volvo App. p. 14.

[78] As stated in note 75, *supra*, Peugeot has attempted, unsuccessfully, to employ a hydropneumatic-type EGR system to replace its step-by-step-type and electropneumatic-type EGR systems. It is now attempting to develop a more advanced electronic EGR system, with other features incorporated, for use on all of its diesel engine families, but does not anticipate its use in production during the requested waiver period.

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I therefore conclude that waivers are necessary in model years 1983 and 1984 to permit development of such advanced systems.[79]

For those engine families for which manufacturers have requested interim standards of 1.5 g/mi NO_x, the data submitted by the manufacturers do not necessarily show that without a waiver up to 1.5 g/mi NO_x these engine families will not be able to meet applicable NO_x emission standards of between 1.0 and 1.5 g/mi NO_x in production. Nevertheless, a significant risk does exist that, were I to set interim standards for these engine families more stringent than 1.5 g/mi NO_x the manufacturers would be likely to add EGR or to increase the EGR rate in an effort to reduce NO_x, thus potentially increasing particulate emissions.[80] As discussed in Section III.B. of this decision, I have concluded that any risks associated with slightly increased NO_x emissions are, on balance, outweighed by potential benefits in reduced particulate emissions. As a result, I am setting interim NO_x standards of 1.5 g/mi NO_x for those engine families for which this interim standard was requested to minimize the likelihood that manufacturers will increase EGR rates to meet the interim NO_x standard.[81]

For the Peugeot and VW engine families for which interim standards less stringent than 1.5 g/mi NO_x were requested,[82] data submitted by those manufacturers indicate that those engine families will be able to meet the requested interim NO_x standard and the 0.6 g/mi particulate standard. Therefore, I am setting interim standards for those engine families at the requested levels.[83]

B. *Endangerment to Public Health.* In order to grant a waiver request, Section 202(b)(6)(B)(i) requires me to determine that a waiver of the statutory standard of 1.0 g/mi NO_x would not endanger public health. Congress intended my assessment of this criterion to include consideration of the potential health effects of unregulated pollutants from diesel engines as well as the health effects associated with increased NO_x emissions.[84]

1. *Oxides of Nitrogen (NO_x).* In EPA's earlier waiver decisions, the Administrator concluded that the potential effects of granting NO_x waivers on ambient NO_x levels would not be significant.[85] Granting waivers for the engine families listed above does not alter this conclusion. The potential effects on NO_x levels resulting from granting these additional waivers, even when combined with the effects of the waivers EPA granted earlier, will not be significant.[86]

2. *Particulates.* One concern in these proceedings relating to emissions from diesel engines is about potential increased emissions of diesel particulates, especially given the inconclusiveness of data thus far on health risks of exposure to organic components of the diesel particulates.[87] These concerns warrant action, where appropriate, that would minimize particulate emissions from light-duty diesels.

It is also undisputed that the projected increase in diesel light-duty vehicle production will increase ambient total suspended particulates and consequently human exposure to respirable particulates.[88] This fact underscores my concern for action minimizing particulate emissions from light-duty diesels.

The first two consolidated decisions noted that, to the extent that waivers are granted, the applicants will be able to market diesel vehicles that emit more particulates than would gasoline-powered vehicles. However, my assessment of the risk posed by these emissions must be made in light of the potential risk posed by the particulate emission levels that might result from waiver denials.[89] If I deny a waiver, an applicant may attempt to manufacture its diesels and successfully certify them in compliance with the 1.0 g/mi NO_x standard. As part of an all-out effort to market vehicles complying with a 1.0 g/mi NO_x standard, a manufacturer might decide to incorporate technology that places upward pressure on particulate emissions.[90] This is the type of health risk EPA sought to avoid in other NO_x waiver decisions.[91]

Several manufacturers submitted data indicating that using technology necessary to achieve a 1.0 g/mi NO_x

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Volvo indicates that it will use the waiver period to concentrate on development of a fully flexible (electronic) EGR system, combined with a fuel injection system, which it anticipates will allow both of its naturally aspirated and turbocharged diesel engine families to meet all applicable emission standards in model year 1985. Volvo states that this technology is not available from its suppliers for introduction in model year 1983 and 1984 diesel engine families. Volvo App. p. 13.

VW states that with regard to its small diesel engine families optimizing the combustion chamber and pump timing, rather than introducing EGR, is necessary in order for these engine families to achieve compliance with all emission standards satisfactorily. VW hopes to solve its problems with regard to these engines by model year 1985. VW App. p. 9. With regard to its larger diesel engines and larger displacement diesel vehicles, VW states that a more advanced EGR system is necessary in order to meet a 1.0 g/mi standard. VW App. pp. 9–10. VW is developing two new separate EGR systems for use on its diesel engines—a mechanical, unthrottled EGR system and an electronic EGR system. Neither system will be available for use on its vehicles during the waiver period. VW App. pp. 9–10, 13–14. At the July 23, 1981, hearing, the Center for Auto Safety stated its belief that technology currently exists for diesels to meet a 1.0 g/mi NO_x standard in model years 1983 and 1984, especially in view of California certification data which indicate that Checker certified a GM-built diesel engine in model year 1981 at 0.7 g/mi NO_x. Transcript p. 4; CAS Supplement. However, in that model year neither California nor EPA had an applicable particulate emission standard. Checker had the opportunity to employ a high EGR rate to meet this NO_x level without having to be concerned with particulate emission levels. *See also* note 96, *infra.* Moreover, the record contains no information indicating that any successful technology available to Checker also is available to these applicants.

[79] The need for additional lead time is compounded for all these engine families by the fact that a more stringent particulate standard goes into effect in model year 1985.

[80] *See* discussion at section III.B.2 of this decision, *infra*, for examples of the effect of EGR systems on particulates. *See also* discussion in the text following note 83, *infra.*

[81] *See* section III.B.2, *infra.*

[82] These include:

—Peugeot XD2C–NA (1.2 g/mi)

—VW 1.6L–NA–2250 IW (1.3 g/mi), 1.6L–TC–2250 IW (1.3 g/mi), 1.6L–NA–2500 and 2750 IW (1.4 g/mi), 1.6L–TC–2500 and 2750 IW (1.4 g/mi)

[83] Because Peugeot and VW indicated that they did not require waivers to the maximum level permitted, it appears unlikely that either will decide it needs to incorporate technological improvements, such as increases in EGR rates above that already planned which may pose other health risks, to assure that their engine families will comply with interim NO_x levels.

[84] *See*, e.g., H.R. Rep. No. 294, 95th Cong., 1st Sess, 19, 237, 250–51 (1977); S. Rep. No. 127, 95th Cong., 1st Sess. 70 (1977).

[85] *See*, e.g., 45 FR 5480, 5488–89 (January 23, 1980); 45 FR 34718, 34722 (May 22, 1980).

[86] In the first NO_x waiver decision at 45 FR 5488, EPA estimated that even in the "worst-case," that is, four-year waivers, high market penetration of diesels, and high deterioration rates of emission control equipment, there would not be a significant effect on ambient NO_x levels. One commenter, the Center for Auto Safety, stated that EPA has not considered the effect of increased NO_x on oxidant formation and acid rain. Because available information shows these waivers will have no significant impact on ambient NO_x levels, it is unlikely that there will be a significant impact on oxidant formation and acid rain formation. *See also* Appendix B to EPA's first NO_x waiver decision cited above.

[87] 45 FR 5480, 5489 (January 23, 1980); 45 FR 34718, 34722 (May 22, 1980). Although there is no current definitive epidemiologic evidence establishing cancer risk from exposure to diesel particulates, the uncertainty surrounding the potential health risk posed by diesel particulates warrants a cautious approach. 45 FR 5480, 5490 (January 23, 1980).

[88] Diesel-powered vehicles emit particulates at a far greater rate than catalyst equipped gasoline-powered vehicles. 45 FR 5480, 5489–5490 (January 23, 1980); 45 FR 34718, 34722 (May 22, 1980).

[89] 45 FR 5480, 5490 (January 23, 1980); 45 FR 3718, 34722 (May 22, 1980).

[90] Although a particulate emission standard of 0.6 g/mi is in effect for the 1982 model year, it is a technology-based standard.

[91] *See, e.g.*, 45 FR 5480, 5490, 5492 (January 23, 1980) for a fuller discussion of this point. This approach was upheld in *NRDC* v. *EPA*, 65 F. 2d 318 (D.C. cir. 1981).

standard would result in higher particulate emissions.[92]

Vehicle Technology, Peugeot and Chrysler indicated that without waivers they believe they would not be able to market their diesel engine families which are the subject of this proceeding.[93] However, these three manufacturers have submitted economic and other information indicating the strong incentives that exist for them to attempt to certify and market these engine families even without waivers.[94] To accomplish this, there is a significant risk that they would take action to market diesels that result in increased particulate emissions.[95]

By granting waivers and establishing an interim NO_x standard that the manufacturers of the engine families discussed in section III(A)(3) of this decision will be able to meet without using EGR or increasing EGR rates, I can avoid the risk that they will produce these engine families under a 1.0 g/mi NO_x standard with higher particulate emissions. Because the apparent benefit of maintaining low particulate emissions outweigh the apparent risks of increased NO_x emissions, I conclude that granting these waivers, thereby precluding any need for the use of EGR or further increased EGR that may put upward pressure on particulate emissions, is more protective of the public health than denying these waivers.[96]

C. *Fuel Economy.* Fuel economy considerations are contained in the second and third criteria of section 202(b)(6)(B) of the Act.[97] Each of the manufacturers receiving waivers has submitted data demonstrating that the vehicles in question will meet the applicable fuel economy standards in the short-term, and have the potential to meet the applicable standard at the expiration of the waiver period.[98]

D. *Long-Term Air Quality Benefit.* In order to grant a waiver, I must find that the diesel engine technology has the potential for long-term air quality benefit.[99] An applicant meets the long-term air quality benefit criterion of the Act if the engine families covered by its waiver request have the potential to comply with applicable emission standards at the expiration of the waiver period.[100] Each manufacturer for which I am granting waivers submitted information indicating that it is developing advanced NO_x and particulate control systems that have the potential to meet applicable emission standards in model year 1985, when the waivers expire.[101] Thus, I conclude that

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[92] BMW App. pp. 2, 139.

VW still cannot achieve a 1.0 g/mi NO_x standard for its 2250 pound IW 1.6L diesel engine families using combustion chamber modification techniques alone and VW has rejected the idea of using EGR on these engine families and heavier inertia weight 1.6L engine families because of durability and driveability problems. VW believes it will need to use EGR to meet a 1.0 g/mi NO_x standard with its 2.0L engine families. VW App. p. 9. VW's use of its presently available EGR system would cause particulate emissions to increase significantly and its electronic EGR will not be available during the waiver period. VW App. p. 10. *See also* discussion of this issue at 45 FR 34718, 34723 (May 22, 1980); 46 FR 16325, 16328 (March 12, 1981).

Volvo states that a high rate of EGR would be required to bring NO_x emissions to levels approaching the 1.0 g/mi standard. Volvo App. p. 12. Volvo also states that at that rate of EGR, particulate emissions would increase approximately 50 percent, from a range of 0.25–0.35 g/mi to a range of 0.4–0.5 g/mi. Volvo App. p. 16. Moreover, at these levels Volvo experiences unacceptable engine durability problems. *See* notes 70 and 77, *supra.*

[93] Vehicle Technology App. pp. 7, 8. Peugeot XD2S/XD3S App. p. 4; Peugeot XD2C App. p. 4; Peugeot XUD9 App. p. 6; Chrysler App.

[94] Vehicle Technology, which produces only diesel vehicles, states that it would not be able to sustain itself without the ability to market the diesel vehicles in question during the waiver period, and that it would be forced out of business. Vehicle Technology App. pp. 18, 19.

Peugeot states that 90 percent of its U.S. sales are diesel vehicles, and that if it could not market its diesel vehicles, Peugeot of America would be forced out of business. Peugeot XD2S/XD3S App. 5; Peugeot XD2C App. p. 5; Peugeot XUD9 App. p. 6.

[95] Chrysler Supp.; Chrysler's application, which incorporates Peugeot's XUD9 application by reference, states that the introduction of this engine family "represents a critical part of our marketing plan." Chrysler App.

Peugeot has submitted data showing that the EGR rate it would most likely use to try to meet a 1.0 g/mi NO_x standard would result in higher particulate emissions than the EGR rate it will use to meet interim standards For example, with the 2.3L-naturally aspirated XD2C engine family, Peugeot has already shown that it could comply with the 1.0 g/mi NO_x standard using its step-by-step EGR system, but only by using an increased EGR rate with a resulting increase in particulate emissions to a level exceeding the 0.6 g/mi standard. Peugeot XD2C App. p. 25. By granting a waiver and establishing a 1.2 g/mi interim standard, I can avoid the risk that Peugeot will produce this engine family calibrated to a 1.0 g/mi NO_x standard with higher particulate emissions. Similarly, for the XD2S/XD3S, Peugeot submitted preliminary data showing increased particulate emissions with its not fully developed electronically controlled EGR system (calibrated to meet a 1.0 g/mi NO_x standard) over its presently available electropneumatic-type system (calibrated to meet a 1.5 g/mi NO_x standard). Peugeot XD2S/XD3S App. pp. 25, 32. Finally, for the XUD9, Peugeot submitted information indicating that particulate emissions would range from 0.114 to 0.2 g/mi with a low EGR rate system targeted to meet a 1.5 g/mi NO_x standard, and from 0.22 to 0.51 g/mi particulate with a system targeted to meet a 1.0 g/mi NO_x standard. However, at the high EGR rate vehicles, NO_x emissions range between 0.78 and 1.11 g/mi, and vehicles experience significant durability problems. Peugeot XUD9 App. pp. 27, 32, 33.

[96] EPA used the same reasoning in earlier NO_x waiver decisions. *See,* for example, 45 FR 5480, 5490–5492 (January 23, 1980) and 45 FR 34718, 34723. (May 22, 1980). *See also* note 91, *supra.*

The Center for Auto Safety testified at the July 23, 1981 hearing that California has concluded that there is no NO_x-particulate emission control trade-off at the 1.0 g/mi NO_x/0.6 g/mi particulate emission range, and submitted California statements to this effect. It further testified that it would be arbitrary and capricious for EPA to grant NO_x waivers where NO_x control results in particulate emissions below the 0.6 g/mi particulate standard. While EPA has never expressly made a finding of the existence of a NO_x-particulate trade-off for all diesel designs at all levels of emissions, available data for these engine families tend to indicate an increase in particulates as NO_x emissions approach 1.0 g/mi through increased EGR use. Additionally, the California Air Resources Board (CARB) staff, in a recent staff report addressing proposed revisions of California's NO_x standards, now acknowledges manufacturers' contentions of the existence of a NO_x-particulate trade-off. *See* CARB staff report for "Public Hearing to Consider Amendments to Title 13, Section 1960.1 and 1960.15, California Administrative Code, and Related Test Procedures, Regarding Oxides of Nitrogen Exhaust Emission Standards for 1983 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," dated October 5, 1981. *See* note 91, *supra.*

[97] Clean Air Act, as amended, section 202(b)(6) (ii) and (iii), 42 U.S.C. 7521(b)(6)(B) (ii) and (iii) (Supp. I 1977). For a discussion of the methods by which EPA makes the statutory determinations that these criteria require, *see* section III(C) of the first decision at 45 FR 5493–5494 (January 23, 1980).

[98] BMW Supp.; BMW Supp. II.; BMW Supp. III.; BMW App. p. 139. Ford App. p. 3.

Peugeot XD2C App. p. 207; Peugeot XD2S/XD3S App. pp. 136, 138; Peugeot XUD9 App. pp. 135, 147.

Chrysler App.

Vehicle Technology App. pp. 8, 9, 21, 22. Vehicle Technology has the potential to meet fuel economy requirements in model year 1984 after the expiration of its waiver. It plans to reduce the weight and horsepower of its larger vehicles, and projects that it will meet EPCA requirements.

VW App. pp. 22–24. *See also* discussion of fuel economy waiver criterion at 45 FR 34718, 34723 n. 66, 69.

Volvo App. pp. 8, 9.

[99] 42 U.S.C. 7521(b)(6)(B)(iii) (Supp. I 1977).

[100] *See,* 45 FR 5480 at 5493 (January 23, 1980), 45 FR 34718 at 34723 (May 22, 1980).

[101] BMW is developing improved EGR systems and a particulate trap system that has the potential to meet applicable standards in model year 1985. BMW App. pp. 122, 129, 130. *See also,* note 67, *supra.*

The above analysis also applies to Ford's application.

In its three applications, Peugeot details steps that it plans to take to meet emission standards in model year 1985. Peugeot XD2C App. pp. 6, 12, 19–22, 56, 59, 60, 210; Peugeot XD2S/XD3S App. pp. 6, 12, 17, 31, 38, 139; Peugeot XUD9 App. pp. 7, 14, 19, 24, 26, 51–52, 138. Peugeot has expressed doubts about its ability to meet a 1.0 g/mi NO_x and a 0.2 particulate standard in model year 1985. However, EPA has identified strategies that potentially will enable engine families like Peugeot's to meet a particulate standard of 0.2 g/mi in the 1985 model year. *See* Particulate Rulemaking at 14497–14500.

The above analysis regarding Peugeot's XUD9 engine family also applies to Chrysler's application.

Vehicle Technology states that its engine families have the potential to meet applicable emission standards in model year 1984, after its requested waiver expires.

Vehicle Technology App. pp. 9, 10. Vehicle Technology also hopes to meet the 0.2 g/mi particulate standard in the 1985 model year and is negotiating with several suppliers of emission control equipment to accomplish that end. Vehicle Technology App. p. 23.

VW plans to meet applicable emission standards in model year 1985 with its smaller diesel engines (1.6L) through engine modifications and possibly

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these models have the potential for long-term air quality benefit.

E. *Final Decision and Amended Rule.* Section 202(b)(6)(B) of the Act grants me the authority to waive the statutory standard of 1.0 g/mi NO_x and to prescribe interim standards which provide the NO_x emissions may not exceed 1.5 g/mi for any class or category of diesel light-duty vehicles or engines manufactured during model years 1981, 1982, 1983, and/or 1984 which meet the statutory waiver criteria.

Based on the above discussion, I hereby grant the requested waivers of the 1.0 g/mi NO_x standard for the engine families listed in section II of this decision. I am simultaneously promulgating interim standards of between 1.2 g/mi and 1.5 g/mi for those engine families and model years, as noted.

Dated: February 2, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3985 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-26-M

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40 CFR Part 256

[SW-4-FRL 2018-6]

Approval of North Carolina Solid Waste Management Plan

AGENCY: Region IV, Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of North Carolina has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the North Carolina Solid Waste Management Plan. Approval of the North Carolina plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the North Carolina Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, phone: 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979 (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), approval of Iowa Solid Waste Management Plan.

On February 6, 1981, the North Carolina Department of Human Resources, Division of Health Services, submitted the final, officially adopted Solid Waste Management Plan for the State of North Carolina. Among EPA concerns regarding the North Carolina plan was coverage of certain wastes. Certain sludges, agricultural wastes, and mining wastes subject to RCRA Subtitle D criteria will be regulated by the State in a manner equivalent to that criteria by whichever authority is appropriate to the task. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

Another consideration concerned use of the State's permitting system to prohibit establishment of new open dumps. The State assured EPA that permit conditions set for new facilities would prevent the establishment of new open dumps. The State has also confirmed to EPA that use of compliance schedules for solid waste facilities would be limited only to those facilities unable to comply with other public or private alternatives for solid waste management.

The State also assured EPA that other methods of disposal of waste are not permitted with the exception of land application, which must comply with State permits and standards.

DHS confirmed that variances from State regulations will not be allowed where a conflict with the requirements of RCRA may result.

There are no restrictions on State or local authority to enter into long term contracts. Restrictions on contracting by local governments apply to franchises for solid waste disposal rather than resource recovery activities.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the North Carolina Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under Section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of North Carolina for approval. I find that the North Carolina plan meets the minimum requirements of RCRA for approval. Under authority of Section 4007 of RCRA I approve the North Carolina Solid Waste Management Plan.

IV. Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Kentucky Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's

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electronically controlled EGR (depending on the weight class). VW App., 10. For its larger 2.0L engines, VW expects to meet 1985 model year standards with electronically controlled EGR. VW App. pp. 3, 11, 13. *See also* note 76, *supra.*

Volvo plans to meet the 1985 model year standards using electronically controlled EGR and injection timing, possibly with the addition of a particulate trap. Volvo App. pp. 13, 15, 18.

action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of North Carolina's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of North Carolina's solid waste management plan will not have a significant economic impact on a substantial number of small entities. This approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–4047 Filed 2–12–82; 8:45 am]

BILLING CODE 6560–38–M

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40 CFR Part 256

[SW–4–FRL 2018–3]

Approval of the Alabama Solid Waste Management Plan

AGENCY: Region IV, Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Alabama has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Alabama Solid Waste Management Plan. Approval of the Alabama plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Alabama Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT:

James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365, phone: 404/881–3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On April 20, 1981, the Alabama Department of Public Services, Division of Solid Waste Management, submitted the final, officially adopted Solid Waste Management Plan for the State of Alabama. Among EPA concerns regarding the Alabama plan was coverage of coal mining wastes, livestock and poultry wastes, septic tank pumpings and wastes from industrial operations.

The State has assured EPA that each of these wastes will be regulated in a manner equivalent to the Federal criteria. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

The State assured EPA that industrial wastes controlled by other agencies would be adequately controlled through agreements with these agencies.

Another concern was the State's ability to prohibit the establishment of new open dumps. The State satisfies this condition by requiring Letters of Approval for all industrial disposal of solid wastes. Conditions will be set which are equivalent to EPA criteria.

The State also assured EPA that compliance schedules would be issued only when facilities have demonstrated alternative methods of solid waste disposal cannot be utilized.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Alabama Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of Alabama for approval. I find that the Alabama plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA I approve the Alabama Solid Waste Management Plan.

IV. Compliance with Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Alabama Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94–580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of Alabama's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of Alabama's solid waste management plan will not have a significant

economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4048 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 256

[SW-4-FRL-2018-1]

Approval of the Mississippi Solid Waste Management Plan

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Mississippi has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Mississippi Solid Waste Management Plan. Approval of the Mississippi Plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Mississippi Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, phone: 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On February 23, 1981, the Mississippi Department of Public Services, Division of Solid Waste Management, submitted the final, officially adopted Solid Waste Management Plan for the State of Mississippi. Among EPA concerns regarding the Mississippi plan was coverage of oil field waste products. These wastes are regulated in the State by the Mississippi Oil and Gas Board. EPA has determined that oil field waste products subject to RCRA Subtitle D criteria are regulated in a manner equivalent to the Federal criteria. Air pollution control residuals and sewage sludges are regulated appropriately by the State's permitting procedures.

The State assured EPA that new on-site solid waste disposal facilities must obtain a permit in accordance with State solid waste requirements, thus preventing establishment of new open dumps.

Mississippi committed to EPA that variance procedures would not be used to allow establishment of new open dumps. In addition, the State is authorized to set permit conditions equivalent to 40 C.F.R. Part 257 criteria until new regulations are adopted. Further, compliance schedules will be limited to facilities demonstrating an inability to use other public or private alternatives.

The Division will review State and local authorities to enter into long-term contracts and will eliminate any prohibitions.

The State confirmed that the Plan was adopted in accordance with State administrative procedures.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Mississippi Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under Section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of Mississippi for approval. I find that the Mississippi plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA I approve the Mississippi Solid Waste Management Plan.

IV. Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Mississippi Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of Mississippi's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of Mississippi's solid waste management plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4050 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SW-4-FRL-2018-2]

Approval of the Kentucky Solid Waste Management Plan

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the Commonwealth of Kentucky has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Kentucky Solid Waste Management Plan. Approval of the Kentucky plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Kentucky Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365, 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On January 29, 1981, the Kentucky Department for Natural Resources and Environmental Protection submitted the final, officially adopted, Solid Waste Management Plan for the Commonwealth of Kentucky. Among EPA concerns regarding the Kentucky plan was coverage of coal mining wastes. Mining wastes are regulated in the State by the Bureau of Surface Mining Reclamation and Enforcement. EPA has determined that mining wastes subject to RCRA subtitle D criteria will be regulated by the State in a manner equivalent to the Federal criteria. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

Another consideration concerned use of the State's permitting system to prohibit establishment of new open dumps. The State assured EPA that permit conditions set for new facilities would prevent the establishment of new open dumps. The State has also confirmed to EPA that use of compliance schedules for solid waste facilities would be limited only to those facilities unable to comply with other public or private alternative for solid waste management.

The final concern of EPA involve the prohibition on long-term contracts for resource recovery. The State has assured EPA that they will submit to their legislature a change in their solid waste law which will explicitly provide that no State or local government within the State shall be prohibited under State or local law from entering into such contracts.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Kentucky Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the Commonwealth of Kentucky for approval. I find that the Kentucky plan meets the requirements of RCRA for approval. Under authority of Section 4007 of RCRA I approve the Kentucky Solid Waste Management Plan.

IV. Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Kentucky Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by Section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

John A. Little,

Acting Regional Administrator.

Subject: Approval of Kentucky's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act.

I certify under 5 U.S.C. 605(b) that the approval of Kentucky's solid waste management plan will not have a significant economic impact on a subtantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4049 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 256

[SW-4-FRL 2018-4]

Approval of the Florida Solid Waste Management Plan

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Florida has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval of the Florida Solid Waste Management Plan. Approval of the Florida plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Florida Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365, phone: 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On February 25, 1981, the Florida Department of Environmental Regulation, submitted the final, officially adopted, Solid Waste Management Plan for the State of Florida. Among EPA concerns regarding the Florida plan was coverage of drilling fluid wastes. Drilling fluid wastes are regulated in the State by the Florida Oil and Gas Board. EPA has determined that State disposal standards for drilling fluid wastes will require that they be regulated by the State in a manner equivalent to that of the Federal criteria. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

The State has assured EPA that open dumps for sludge disposal will be prohibited through present sanitary landfill criteria and individual permit conditions.

For new facilities required to obtain solid waste disposal permits, the Florida Department of Environmental Regulation is authorized to set permit conditions that are equivalent to 40 CFR part 257 criteria.

Another EPA concern was Florida's exemption from regulatory permitting for new industrial facilities. This exemption relieves the operator of a new industrial facility only from administrative procedures. Florida has the authority in their regulations to strictly prohibit the disposal of solid waste unless in an environmentally sound manner and all new industries within the State are subject to these regulations. The State has assured EPA that the same level of environmental protection will be achieved for these unpermitted facilities as would be achieved if the facilities were permitted.

The State assured EPA that compliance schedules would be used only when facilities demonstrated that no other disposal alternatives were available.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Florida Solid Waste Management Plan was noticed for review and comment. Comments on the Florida plan were received for 30 days. The only comment received by EPA is responded to in the following discussion.

Comment—The commenter felt that the Florida plan failed to identify potential conflicts between material recycling and energy recovery projects. Particularly, they felt the plan did not regard the needs of the material recycling industry in certain counties.

Response—A public hearing was held on January 27, 1981, on the plan by the State agency. Comments received at the hearing paralleled the concerns of this commenter. After review of the summary of the hearing, EPA concluded that the State of Florida does not promote one type of resource recovery over another. The State also asserted that they would not interfere with decisions which are made at the regional or local level. EPA believes the Plan supports the State's role in resource conservation and recovery and fulfills this requirement of RCRA.

III. Finding

The authority to approve State plans under section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of Florida for approval. I find that the Florida plan meets the requirements of RCRA for approval. Under authority of section 4007 of RCRA I approve the Florida Solid Waste Management Plan.

IV. Compliance With Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Florida Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of Florida's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of Florida's solid waste management plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-4046 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 256

[SW-4 FRL 2018-5]

Approval of the Tennessee Solid Waste Management Plan

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Final rule.

SUMMARY: As provided by the Resource Conservation and Recovery Act (RCRA), the State of Tennessee has submitted to the U.S. Environmental Protection Agency (EPA) its adopted State Solid Waste Management Plan. Today, EPA is announcing its approval for the Tennessee Solid Waste Management Plan. Approval of the Tennessee plan indicates that the plan meets the requirements set forth in the RCRA, which provides for the identification of State, local and regional responsibilities for Solid Waste Management; the encouragement of resource conservation and recovery; and the development and application of State controls to provide for environmentally sound solid waste disposal practices.

The purpose of this notice is to inform the public that the Agency is approving the Tennessee Solid Waste Management Plan.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, phone: 404/881-3016.

SUPPLEMENTARY INFORMATION:

I. Background

On July 31, 1979, (44 FR 45066) EPA published "Guidelines for the Development of State Solid Waste Management Plans." These guidelines were required by Section 4002(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA).

The guidelines reflected the statutory requirements for State plans and recommended methods and procedures to meet these requirements. Under Section 4007 of RCRA, the Administrator approves State plans which meet the requirements of paragraphs (1), (2), (3), and (5) of Section 4003 of RCRA and which contain provisions for revisions. For additional background information on the plan approval process, refer to 46 FR 34802 (July 6, 1981), Approval of the Iowa Solid Waste Management Plan.

On April 16, 1981, the Tennessee Department of Public Health submitted the final, officially adopted Solid Waste Management Plan for the State of Tennessee. Among EPA concerns regarding the Tennessee plan were coverage of coal mining wastes and septic tank pumpings.

The State of Tennessee has assured EPA that these wastes are regulated in a manner equivalent to 40 CFR Part 257 criteria. Thus, these wastes will be disposed of in an environmentally sound manner as required by Section 4003 of RCRA.

The State assured EPA that they possess the authority to set permit conditions to require compliance with standards equivalent to the Federal criteria.

The Department has also reviewed their authority to enter into long-term contracts for resource recovery facilities and found no prohibitions or restrictions.

II. Summary of Comments

On November 4, 1981, at 46 FR 213, the Tennessee Solid Waste Management Plan was noticed for public review and comment for 30 days. As of December 4, 1981, no substantive comments were received by Region IV regarding the Plan.

III. Finding

The authority to approve State plans under section 4007 of RCRA has been delegated to the Regional Administrator.

I have reviewed the Solid Waste Management Plan submitted by the State of Tennessee for approval. I find that the Tennessee plan meets the requirements of RCRA for approval. Under authority of section 4007 of RCRA I approve the Tennessee Solid Waste Management Plan.

IV. Compliance with Executive Order 12291

Under Executive Order 12291 effective February 17, 1981, EPA must judge whether a rule is "Major" and, therefore, subject to the requirement for a Regulatory Impact Analysis. Approval of the Tennessee Solid Waste Management Plan is not a "major rule" because it does not result in an annual effect on the economy of $100 million or more; result in increases in costs or prices; or pose significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Any costs which the State or the regulated community must incur to satisfy the State plan arise, not from this approval (which is prescribed by section 4007(a) of RCRA), but because the plan complies with earlier requirements issued by EPA. ("Guidelines for Development and Implementation of State Solid Waste Management Plans," 40 CFR Part 256, and the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 40 CFR Part 257.) Today's action neither alters these earlier regulatory requirements nor imposes new or additional costs.

This notice of approval was submitted to the Office of Management and Budget for review under Executive Order 12291.

V. Authority

(Sec. 4007(a), Pub. L. 94-580, 90 Stat. 2817 (42 U.S.C. 6947))

Charles R. Jeter,

Regional Administrator.

Subject: Approval of Tennessee's Solid Waste Management Plan, Certification Under the Regulatory Flexibility Act

I certify under 5 U.S.C. 605(b) that the approval of Tennessee's solid waste management plan will not have a significant economic impact on a substantial number of small entities. This Approval will reduce burdens on small entities by establishing a mechanism to insulate them from citizen suits to enforce the open dumping prohibition. This rule, therefore, does not require a regulatory flexibility analysis.

Dated: February 8, 1982.

Anne M. Gorusch,

Administrator.

[FR Doc. 82-4045 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5B-1, 5B-2

[APD 2800.4, CHGE 10]

Reports of Identical Bids; Listing of Subcontractors

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration procurement regulations, Chapter 5B, are amended by adding a new subpart, Reports of Identical Bids, which requires that a copy of Department of Justice Form DJ-1500, Identical Bid Report for Procurement, be forwarded to the Office of Inspector General. In addition, the clause, Listing

of Subcontractors, is relocated, redesignated, and revised. This clause requires bidders to name the subcontractors with whom the bidder proposes to subcontract with for performance. The effect of this change is to improve the procurement system.

EFFECTIVE DATE: March 5, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703–557–8947).

1. The Contents for Part 5B–1 is amended by adding Subpart 5B–1.16 to read as follows:

PART 5B–1—GENERAL

Sec.

Subpart 5B–1.16—Reports of Identical Bids

5B–1.1603 Reporting requirements.
5B–1.1603–3 Submission of reports.

Subpart 5B–1.16—Reports of Identical Bids

2. Subpart 5B–1.16 is added to read as follows:

§ 5B–1.1603 Reporting requirements.

§ 5B–1.1603–3 Submission of reports.

Identical bid reports shall be prepared by contracting officers on U.S. Department of Justice Form DJ–1500, Identical Bid Report for Procurement, in accordance with § 1–1.1603. The report shall be reviewed by the Director of the procuring activity and shall be transmitted as follows:

(a) Two copies as required by FPR 1–1.1603–3(b) shall be sent to the Attorney General, Ref. AT–IBR, Washington, DC 20530 (No transmittal letter is required), and

(b) One copy to the appropriate GSA Special Agent in Charge, Field Investigations Office, Office of Investigations, Office of Inspector General.

3. The Contents for Part 5B–2 is amended by redesignating § 5B–2.202–70 to read "§ 5B–2.202–51", as follows:

PART 5B–2—PROCUREMENT BY FORMAL ADVERTISING

Sec.

Subpart 5B–2.2—Solicitation of Bids

5B–2.202–51 Listing of subcontractors.

Subpart 5B–2.2—Solicitation of Bids

4. Section 5B–2.202–70 is redesignated as § 5B–2.202–51 and revised to read as follows:

§ 5B–2.202–51 Listing of subcontractors.

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, invitations for bids for new construction and repair and alteration contracts shall require the bidder to name the subcontractors with whom the bidder proposes to subcontract for performance of onsite work of the categories set forth in the supplement to bid form, List of Subcontractors (see § 5B–2.202–51(h)), or to enter the bidder's own name to indicate work that will not be subcontracted. For each project, the contracting officer shall determine the categories of the specified work for which the names are to be submitted, based on the following criteria:

(1) The listing shall include all heating, ventilating, and air-conditioning (HVAC), electrical; and vertical transportation categories without regard to estimated value.

(2) In addition, the listing shall include all categories of work in the project specifications which, individually, are determined by the contracting officer to compose at least 6 percent of the estimated contract price. Categories estimated to cost less than 6 percent shall not be included. For the purpose of determining which categories constitute 6 percent or more of the total contract price, computations for each category shall include all estimated costs of the work in the category (including materials, equipment, and offsite labor as well as onsite labor) plus a prorated share of applicable markups such as those for overhead, profit, and bond premiums.

(3) To identify the work encompassed in a category and thereby enable the bidders to ascertain all of the work for which they are obliged to name proposed subcontractors (or themselves), the supplement to bid form, List of Subcontractors, (see § 5B–2.202–51(h)), included in the invitation for bids shall be prepared as follows:

(i) For HVAC, enter on the form: "All HVAC work in Div. 15, Mechanical", and provide several spaces for the bidder to enter more than one name and address as appropriate.

(ii) Identify all other applicable categories on the supplement to bid form, List of Subcontractors, by section number and title as used in the specifications.

(b) Invitations for bids on separate contracts for phased construction where individual categories of work are bid separately need not include a subcontractor listing requirement unless two or more categories of work (as defined in paragraph (a) of this section) are combined in one bid package and the contracting officer, or the contracting officer's designee, determines the contract offers subcontracting opportunities as indicated by trade practice.

(c) The requirement to name subcontractors shall not be included in invitations for bids on contracts for new construction or repair and alteration which are not estimated to exceed $1 million. It may be omitted from invitations for bids on specific contracts estimated to exceed this amount, if the contracting officer determines that the listing requirement is not feasible. In such case, he should submit his findings for Central Office approval prior to issuance of the solicitation.

(d) Where bids on alternates are required, the estimated cost of the maximum amount of work which might be included in an award of the contract shall serve as the basis for determining whether both the requirements for listing of subcontractors shall be included in the invitation and the categories of work to be included on the list.

(e) The list of categories of work (as discussed in § 5B–2.202–51(a)) for which subcontractors are required to be named shall be set forth in the supplement to the bid form, List of Subcontractors. This supplement shall be prepared as provided in paragraph (a) of this section.

(f) The following clause shall be included in the Special Conditions:

List of Subcontractors

(a) For each category on the List of Subcontractors, which is included as part of the bid, the bidder shall enter either (1) the name and address of the individual or firm with whom the bidder proposes to subcontract for performance of the category, or (2) the bidder's own name to indicate that the category will not be performed by subcontract.

(b) If the bidder intends to subcontract with more than one subcontractor for a category, or to perform a portion of a category with the bidder's own forces and subcontract with one or more subcontractors for the balance of the category, the bidder shall list all individuals or firms (including the bidder) and state the portion (by percentage or narrative description) of the category to be performed by each.

(c) If any alternate bids are required which would change the bidder's selection of subcontractors for designated categories, the bidder shall list (1) the name and address of the individual or firm with whom the bidder proposes to subcontract (or the bidder's own name) for performance of the category if awarded the contract on the base bid only and (2) the individual or firm with whom the bidder proposes to subcontract (or the bidder's own name) if the award includes one or more of the related alternatives. The bidder shall clearly show, after each listing, the basis for which each named individual or

firm shall be considered to be the listed subcontractor for the category.

(d) The list may be submitted with the bid or separately by telegraph or mail. If mailed separately, the envelope must be sealed, identified as to content, and addressed in the same manner as prescribed for submission of bids. Failure to submit the list by the time set for bid opening shall cause the bid to be considered nonresponsive except under the conditions set out in the Late Bids and Modifications or Withdrawals clause of Standard Form 22, Instructions to Bidders (Construction Contract).

(e) Except as otherwise provided herein, the successful bidder (contractor) shall not have the onsite work of any listed category or portion of category performed by any individual or firm other than those named in the bid for performance thereof.

(1) The contractor shall perform all onsite work of each category for which the contractor entered the contractor's own name, with personnel carried on the contractor's own payroll (other than operators of leased equipment).

(2) The contractor shall require any firm listed for the entire heating, ventilating, and air-conditioning (HVAC) to be experienced in and normally perform either heating or air-conditioning. The listed subcontractor shall perform with the subcontractor's own forces at least 30 percent of the onsite labor for the entire HVAC category. If two or more firms are listed, at least one shall meet the experience requirements above and perform a minimum of 30 percent of the onsite labor of the work for the entire category.

(3) For all other categories, the contractor shall require each subcontractor named in the bid for an entire category or portion thereof to perform with personnel carried on the subcontractor's own payroll (other than operators of leased equipment) not less than 70 percent [1] of the onsite work of that category or portion of category.

(f) In the event a subcontractor fails or refuses to perform with the subcontractor's own forces, the minimum amount of onsite work as specified above, the Government shall have the right to require the contractor (1) to terminate the subcontract (2) to secure approval for a substitution under the terms and conditions set forth in paragraphs (j) and (l) of this clause.

(g) For the purpose of this requirement, the following definitions apply:

(1) The term "subcontractor" shall mean an individual or firm with whom the bidder proposes to enter into a subcontract for the performance of work on the site, including construction, fabrication, or installation of materials and/or equipment pursuant to the project specifications applicable to any category included on the List of Subcontractors. It excludes any manufacturer, fabricator, or supplier whose onsite work would be limited to incidental activities such as testing or adjusting equipment or material installed by others.

(2) The term "subcontract" includes, in addition to a two-signature document, all transactions resulting from acceptance of offers by awards or notices of awards, agreements and job orders, letter agreements, and letters of intent and orders such as purchase orders, under which the subcontract becomes effective by written acceptance or performance. It also includes modifications thereto.

(3) The term "onsite work" is the cost of labor and supervision and excludes the cost of materials and/or equipment.

(h) Nothing contained in this clause shall be construed as changing the percentage requirement in the General Conditions for the contractor to perform with the contractor's own forces.

(i) The contractor shall be responsible for all aspects of performance by subcontractors.

(j) No substitutions for the individuals or firms named will be permitted except in unusual situations and then only upon the submission in writing to the contracting officer of a complete justification therefor and receipt of the contracting officer's written approval. The contractor shall not be entitled to any increase in the contract price if substitution is authorized. However, the contract price shall be reduced if the contractor's cost of performing the work is decreased as a result of approval of a subcontractor substitution. In the event the contracting officer finds that substitution is not justified, the contractor's failure or refusal to proceed with the work by or through the named subcontractor shall be grounds for termination of the contract under the provisions of Clause 5 of the General Provisions.

(k) Notwithstanding any of the provisions of this clause, the contracting officer shall have authority to disapprove or reject the employment of any subcontractor he has determined nonresponsible or who does not meet the requirements of an applicable Specialist or Competency of bidder clause.

(l) The contracting officer shall have the right to require any information and supporting evidence he may deem relevant and necessary in connection with the approval or disapproval of a request for substitution and to determine the extent of reduction (if any) in the contract price in the event substitution is approved, including, but not limited to, certified copies of the original worksheets used in the preparation of the bid on the prime contract, certified copies of the offers submitted to the successful bidder by the named subcontractor and the proposed substitute, and affidavits as to the circumstances relating to the request for substitution or the estimated cost of performance by any subcontractor named or proposed as a substitute. The contractor's failure or refusal to proceed with the work by or through a named subcontractor after failing or refusing for an unreasonable period of time to furnish information and supporting evidence as required by the contracting officer in connection with a request for approval for a substitution shall be grounds for termination under the provisions of Clause 5 of the General Provisions.

(m) Nothing contained in this clause shall in itself be construed to create any contract or property rights in the successful bidder or any subcontractor. The imposition of any requirements under subparagraph (k) of this clause or the contracting officer's refusal to approve a substitution pursuant to the provisions of subparagraphs (j) and (l) of this clause shall not give rise to any cause of action against the Government by the successful bidder or by any subcontractor engaged or proposed to be engaged by the successful bidder.

(n) If the bidder fails to comply with the requirements of subparagraph (a), (b), or (c) of this clause, the bid will be rejected as nonresponsive to the invitation.

(o) In order to implement effectively the objectives of the foregoing provisions and to assure the timely receipt of accurate bids, the bidder is requested to urge all subcontractors intending to submit a proposal for work involved in the project to submit to all bidders to whom they intend to bid, a written proposal (or written abstract) with or without price, outlining in detail the specific sections of the specifications to be included in their work, as well as any exceptions or exclusions therefrom. It is suggested that such written proposal be submitted to the bidder at least 48 hours in advance of the bid opening.

(g) Contracting officers shall treat separate submissions of lists of subcontractors in the same manner as submissions of bids with respect to timeliness of receipt, modification, or withdrawal, and may consider lists of subcontractors, modifications, or withdrawals thereof, received after bid opening time only under the conditions specified in instruction No. 7 of Standard Form 22, Instruction to Bidders. See also § 1–2.201(a)(31).

(h) The supplement to the bid form required by paragraph (e) of this section shall conform to the following format (to be prepared by typewriter and not printed as a GSA Form):

Supplement to Bid Form

List of Subcontractors

Project No. ——

Listed below are the names and business addresses as required by the "Listing of Subcontractors" paragraph of the Special Conditions:

Category—section number/title	Subcontractor—names and business addresses	Portion of catergory (as applicable)

Note.—The listing of an individual or firm (whether a subcontractor or the bidder) who does not meet the requirements of the Specialist or Competency of Bidder clauses in the specifications, wherever applicable, may be grounds for rejection of the bid.

Name of Bidder: ——

By: ——

Date: ——

[1] If the contracting officer determines that the 70 percent performance requirement, as stated above, is not feasible for a specific contract, the contracting officer may specify a lesser percentage and submit his findings for Central Office approval prior to issuance of the solicitation.

5. Section 5B–2.202–71(a) is revised as follows:

§ 5B–2.202–71 Circumstances permitting substitution for subcontractor named in bid.

(a) The contracting officer may permit substitution of a subcontractor for one named in a bid pursuant to the Listing of Subcontractors provision included in an invitation for bids, in unusual situations, upon submission by the contractor or bidder of a complete justification therefor. (See § 5B–2.202–51(f).) The term "unusual situations" includes (but is not limited to) a subcontractor's:

(1) Death or physical disability, if the named subcontractor is an individual;

(2) Dissolution, if a corporation or partnership;

(3) Bankruptcy;

(4) Inability to furnish a reasonable performance and payment bond;

(5) Inability to obtain, or loss of, a license necessary for the performance of the particular category of work;

(6) Failure or inability to comply with a requirement of law applicable to contractors, subcontractors, or construction, alteration, or repair projects;

(7) Failure or refusal to execute the subcontract in accordance with the terms of an offer submitted to the contractor or bidder prior to the latter's submission of his bid, but only where the contracting officer can ascertain with reasonable certainty the terms of such offer. In the absence of any other factors, such a failure or refusal will be considered an unusual situation only if the bidder obtained, prior to bidding, an enforceable commitment from the subcontractor involved;

(8) Failure to meet any criteria of responsibility set out in Subpart 1–1.12, but only when the contracting officer, in the exercise of sound discretion, finds that substitution for this cause would be in the best interests of the Government (i.e., that it would not be prejudicial to the rights of other bidders and that the contractor or bidder has not attempted to circumvent the restraint on bid shopping by listing a nonresponsible subcontractor in order to gain an opportunity to bid shop prior to making the requested substitution); or

(9) Failure to meet the qualification requirements of an applicable Specialist or Competency of Bidder clause, but only when the contracting officer, in the exercise of sound discretion, after discussion with the contractor or bidder and, if appropriate, the named subcontractor, finds that substitution for this cause would be in the best interests of the Government as specified in § 5B–2.202–71(a)(8), above.

* * * * *

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Dated: January 29, 1982.

William B. Ferguson,

Acting Assistant Administrator for Acquisition Policy.

[FR Doc. 82–4064 Filed 2–12–82; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR PUBLIC LAND ORDER 6131

[WASH–05324]

Washington; Revocation and Partial Revocation of Executive Orders

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order and partially revokes another Executive order comprising a total of 22.39 acres of land withdrawn for lighthouse purposes. The lands are excess property and have been reported to the General Services Administration for disposition. Accordingly, they will not be restored to operation of the public land laws, including the mining and mineral leasing laws.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503–231–6905.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order of December 14, 1886, which withdrew certain lands for use by the U.S. Coast Guard for lighthouse purposes is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

T. 31 N., R. 6 W.,
Sec. 33, out lots 1, 2, and 3.

The area described contains 15.05 acres in Clallam County.

2. The Executive Order of February 10, 1908, which withdrew the following described land for use by the U.S. Coast Guard for lighthouse purposes is hereby revoked:

Willamette Meridian

T. 31 N., R. 6 W.,
Sec. 33, unnumbered lot reserved for lighthouse purposes within the Port Angeles Townsite.

The area described contains 7.34 acres in Clallam County.

3. The lands described in paragraphs 1 and 2 have been reported to the General Services Administration for disposition as excess property and will not be restored to operation of the public land laws, including the United States mining laws and mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Garrey E. Carruthers,

Assistant Secretary of the Interior

February 5, 1981.

[FR Doc. 82–4008 Filed 2–12–82; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6250]

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

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street, Southwest, Donohoe Building, Room 505, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain

management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

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

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

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

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

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania: Adams	Bonneauville, Borough of	422294A	Aug. 5, 1975, emergency, Aug. 3, 1981, regular, Aug. 3, 1981, suspended, Jan. 4, 1982, reinstated.	Dec. 27, 1974.
Maryland:				
Anne Arundel	Annapolis, City of	240009B	Dec. 7, 1973, emergency, Nov. 4, 1981, regular, Nov. 4, 1981, suspended, Jan. 12, 1982, reinstated.	June 28, 1974 and Dec. 19, 1975.
Somerset	Unincorporated Areas	240061A	May 8, 1981, emergency, June 15, 1981, regular, June 15, 1981, suspended, Jan. 12, 1982, reinstated.	Apr. 25, 1975.
North Carolina: Lincoln	do	370146B	Jan. 27, 1976, emergency, Dec. 1, 1981, regular, Dec. 1, 1981, suspended, Jan. 4, 1982, reinstated.	Dec. 27, 1974 and May 26, 1978.
Maryland:				
Anne Arundel	Annapolis, City of	240009B	Dec. 7, 1973, emergency, Nov. 4, 1981, regular, Nov. 4, 1981, suspended, Jan. 12, 1982, regular.	June 28, 1974 and Dec. 19, 1975.
Somerset	Unincorporated Areas	240061A	May 8, 1981, emergency, June 15, 1981, regular, June 15, 1981, suspended, Jan. 12, 1982, reinstated.	Apr. 25, 1975.
Connecticut: Tolland	Stafford, Town of	090152A	Jan. 12, 1982, emergency	July 25, 1980.
Tennessee: Marshall	Lewisburg, City of	470121	do	Mar. 1, 1974, Aug. 6, 1976 and Aug. 1, 1980.
Texas:				
Van Zandt	Fruitvale, City of	481041	do	July 16, 1976.
Brown	Early, City of	480088	do	May 17, 1974 and Jan. 30, 1976.
Burnet	Unincorporated Areas	481209	Jan. 12, 1982, emergency	Nov. 22, 1977.
Clay	do	480742	Jan. 13, 1982, emergency	
Pennsylvania: Snyder	Chapman, Township of	422034A	Jan. 13, 1975, emergency, Jan. 6, 1982, regular, Jan. 6, 1982, suspended, Jan. 15, 1982, reinstated.	Mar. 28, 1975.
California: Trinity	Unincorporated Areas	060401A	Jan. 15, 1982, emergency	Dec. 20, 1974 and Dec. 13, 1977.
Texas: Henderson	Brownsboro, City of	480325	do	Dec. 10, 1976.
New York: Allegany	Friendship, Town of	361100	Jan. 22, 1982, emergency	Jan. 3, 1975.
Wisconsin: Waushara	Wild Rose, Village of	550507A	do	June 4, 1976 and May 31, 1974.
South Dakota: Pennington	Unincorporated Areas	460064B	May 28, 1974, emergency, Dec. 1, 1981, regular, Dec. 1, 1981, suspended, Jan. 25, 1982, reinstated.	Dec. 27, 1974 and Mar. 7, 1978.
Pennsylvania: McKean	Bradford, Township of	422245B	July 2, 1975, emergency, Sept. 16, 1981, regular, Sept. 16, 1981, suspended, Jan. 27, 1982, reinstated.	May 10, 1974 and Oct. 15, 1976.
Alaska:	Hoonah, City of	020049B	June 14, 1976, emergency, Apr. 4, 1979, regular, Apr. 16, 1979, suspended, Jan. 28, 1982, reinstated.	June 7, 1974 and Jan. 14, 1977.
Missouri: Cole	Unincorporated Areas	290107B	Jan. 21, 1982, emergency, Jan. 21, 1982, regular.	Dec. 16, 1980 and Dec. 15, 1981.
Tennessee: Shelby	Germantown, City of	470353B	Oct. 1, 1975, emergency, Jan. 20, 1982, regular, Jan. 20, 1982, suspended, Jan. 29, 1982, reinstated.	Sept. 15, 1978.
Texas: Palo Pinto	Graford, City of	480964	Jan. 27, 1982, emergency	July 11, 1975.
Alabama: Tuscaloosa	Northport, City of	010202C	Jan. 6, 1982, suspension withdrawn	July 9, 1976, Sept. 5, 1979 and Mar. 27, 1981.
Arizona: Apache	Eager, Town of	040103A	Jan. 6, 1982, suspension withdrawn	Aug. 8, 1975.
California:				
Sacramento	Folsom, City of	060263B	do	Dec. 3, 1976
Kern	Ridgecrest, City of	060081B	do	Sept. 6, 1974 and Feb. 4, 1977.
Colorado: Montrose	Naturita, Town of	080126B	do	May 17, 1974 and Jan. 9, 1976.
Connecticut:				
Windham	Chaplin, Town of	090179A	do	Dec. 13, 1974.
Hartford	East Granby, Town of	090025B	do	May 31, 1974 and Aug. 13, 1976.
Illinois: Dupage	Carol Stream, Village of	170202C	do	Apr. 12, 1974, Aug. 27, 1976 and June 15, 1978.
Kansas: Butler	Unincorporated Areas	200037	do	Feb. 21, 1978 and Mar. 2, 1981.
Maine: Cumberland	Gray, Town of	230048A	do	Feb. 18, 1977.
Massachusetts: Middlesex	Marlborough, City of	250203B	do	July 26, 1974 and Nov. 15, 1977.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Minnesota:				
Dodge	Hayfield, City of	270550B	do	Aug. 2, 1974 and July 11, 1976.
Houston	Unincorporated areas	270190B	do	Jan. 6, 1978.
Dodge	Kasson, City of	270581A	do	Dec. 27, 1974.
New Jersey:				
Camden	Camden, City of	340128B	do	Oct. 22, 1976 and Dec. 1, 1981.
Middlesex	East Brunswick, Township of	340260B	do	Jan. 23, 1974 and Apr. 15, 1977.
Atlantic	Folsom, Borough of	340568A	do	Jan. 31, 1975.
New York:				
Monroe	Clarkson, Town of	360413B	do	June 14, 1974 and July 9, 1976.
Rockland	Haverstraw, Town of	360681C	do	Dec. 13, 1974 and Nov. 2, 1979.
Do	Hillburn, Village of	360683B	do	Mar. 15, 1974 and Aug. 6, 1976.
Onondaga	Lysander, Town of	360583B	do	Dec. 13, 1974 and July 2, 1976.
Orange	Monroe, Village of	360622B	do	Aug. 2, 1974 and Dec. 24, 1976.
Niagara	North Tonawanda, City of	360508B	do	Apr. 12, 1974 and May 7, 1976.
Do	Pendleton, Town of	360509B	do	May 13, 1974 and Apr. 16, 1976.
St. Lawrence	Potsdam, Village of	360709B	do	Mar. 8, 1974 and July 30, 1976.
Rockland	Sloatsburg, Village of	360690C	do	Mar. 22, 1974 and May 26, 1979.
Ohio: Knox	Centerburg, Village of	390307B	do	May 17, 1974 and Apr. 16, 1976.
Oregon:				
Washington	Cornelius, City of	410261A	do	Nov. 5, 1976.
Clackamas	Wilsonville, City of	410025B	do	Mar. 29, 1974 and Aug. 6, 1976.
Pennsylvania:				
Lancaster	Columbia, Borough of	420543B	do	June 15, 1973 and Apr. 30, 1976.
York	Hanover, Borough of	422212B	do	May 20, 1977.
Fayette	Redstone, Township of	421635A	do	Jan. 17, 1975.
Rhode Island: Providence	Woonsocket, City of	445411B	do	Jan. 16, 1976 and Oct. 13, 1981.
South Carolina: Dorchester	Unincorporated Areas	450068B	do	Dec. 23, 1977.
Vermont: Chittenden	Milton, Town of	500038B	do	July 26, 1974 and Apr. 15, 1977.
Wisconsin: Washington	Kewashum, Village of	550474C	do	Dec. 28, 1973, Apr. 23, 1976 and Mar. 11, 1977.
Alabama:				
Lauderdale	Florence, City of	010140C	Jan. 20, 1982, suspension withdrawn.	May 17, 1974, Mar. 26, 1976 and May 2, 1977.
Montgomery	Montgomery, City of	010174D	do	June 28, 1974, Jan. 9, 1976, Mar. 9, 1979 and May 10, 1977.
Arkansas: Pulaski	Alexander, City of	050377A	do	Apr. 18, 1975.
California: Imperial	Holtville, City of	060070B	do	Apr. 5, 1974 and Dec. 5, 1975.
Florida: Hendry	Labelle, City of	120109B	do	Jan. 16, 1974 and Feb. 13, 1976.
Idaho:				
Nez Perce	Culdesac, City of	160102B	do	Oct. 18, 1974 and Dec. 12, 1975.
Do	Lewiston, City of	160104B	do	Aug. 16, 1974 and May 28, 1976.
Do	Peck, City of	160105B	do	Aug. 16, 1974 and Jan. 16, 1976.
Illinois: Rock Island	Andalusia, Village of	170583B	do	Mar. 15, 1974 and June 18, 1976.
New Jersey:				
Monmouth	Millstone, Township of	340314B	do	Mar. 29, 1974 and May 14, 1976.
Gloucester	Monroe, Township of	340208B	do	Sept. 20, 1974 and June 25, 1976.
Bergen	Northvale, Borough of	340056B	do	Aug. 31, 1973 and July 30, 1976.
Camden	Winslow, Township of	340148B	do	July 26, 1974 and July 30, 1976.
Burlington	Woodland, Township of	340551A	do	Apr. 25, 1975.
New York:				
Erie	Hamburg, Village of	360243B	do	Oct. 29, 1976 and Feb. 17, 1977.
Livingston	Leicester, Town of	361285B	do	Oct. 18, 1974 and Aug. 20, 1976.
Oswego	West Monroe, Town of	360664B	do	Sept. 20, 1974 and Aug. 6, 1976.
Livingston	York, Town of	361289A	do	Nov. 29, 1974.
North Carolina: Nash	Unincorporated Areas	370278B	do	June 1, 1978.
Oklahoma:				
Oklahoma	Nichols Hills, City of	400423A	do	Dec. 20, 1974.
Leflore	Poteau, City of	400093A	do	Nov. 1, 1974.
Pennsylvania:				
Montgomery	Upper Hanover, Township of	421917A	do	Nov. 22, 1974.
Fayette	Washington, Township of	421641A	do	Dec. 20, 1974.
Texas: Bee	Beeville, City of	480027B	do	May 10, 1974 and Jan. 23, 1976.
Vermont: Franklin	Fairfax, Town of	500052B	do	May 17, 1974 and Oct. 22, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3786 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6249]

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

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from

the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohue Building, Room 505, Washington, D.C. 20472.

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

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

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

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

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

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

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
Pennsylvania:				
Allegheny	Franklin Park, borough of	420037	750110, emergency, 820101, regular	760730
Bradford	Troy, borough of	420179	750711, emergency, 820101, regular	740510
Alabama:				
Shelby	Helena, town of	010294	781221, emergency, 820106, regular	750110
Russell	Hurtsboro, town of	010185	760120, emergency, 820106, regular	750718
Montgomery	Montgomery county [2]	010278	751022, emergency, 820106, regular	750117
Etowah	Rainbow City, city of	010351	750915, emergency, 820106, regular	770218
Macon	Tuskegee, city of	010150	750808, emergency, 820106, regular	740816
Arizona: Apache	Eager, town of	040103	760413, emergency, 820106, regular	750808
California:				
Sacramento	Folsom, city of	060263	770310, emergency, 820106, regular	761203
Los Angeles	Lancaster, city of	060672	800215, emergency, 820106, regular	790911
do	Palmdale, city of	060144	751003, emergency, 820106, regular	741018
Kern	Ridgecrest, city of	060081	750908, emergency, 820106, regular	740906
Colorado: Montrose	Naturita, town of	080126	750618, emergency, 820106, regular	740517
Connecticut:				
Windham	Chaplin, town of	090179	751218, emergency, 820106, regular	741213
Hartford	East Granby, town of	090025	740409, emergency, 820106, regular	740531
Illinois:				
Boone	Belvidere, city of	170008	740626, emergency, 820106, regular	740315
Du Page	Carol Stream, village of	170202	730904, emergency, 820106, regular	740412
Rock Island	Rapids City, village of	170593	750401, emergency, 820106, regular	740322
Massachusetts: Middlesex	Marlborough, city of	250203	750725, emergency, 820106, regular	740726
Maine: Cumberland	Gray, town of	230048	750717, emergency, 820106, regular	770218
Minnesota:				
Dodge	Hayfield, city of	270550	740219, emergency, 820106, regular	740802
Houston	Houston county [2]	270190	740430, emergency, 820106, regular	780106
Dodge	Kasson, city of	270581	740520, emergency, 820106, regular	741227
North Carolina: New Hanover	Kure Beach, town of	370170	740912, emergency, 820106, regular	740215
New Jersey:				
Middlesex	East Brunswick, township	340260	720915, emergency, 820106, regular	740123
Atlantic	Folsom, borough of	340568	750221, emergency, 820106, regular	750131
do	Hammonton, town of	340010	750707, emergency, 820106, regular	740531
New York:				
Monroe	Clarkson, town of	360413	740807, emergency, 820106, regular	740614
Rockland	Haverstraw, town of	360681	741213, emergency, 820106, regular	740329
do	Hillburn, village of	360683	750618, emergency, 820106, regular	740315
Onondaga	Lysander, town of	360583	741015, emergency, 820106, regular	741213
Orange	Monroe, village of	360622	750310, emergency, 820106, regular	740802
Niagara	North Tonawanda, city of	360508	750514, emergency, 820106, regular	740412
do	Pendleton town of	360509	740412, emergency, 820106, regular	740531
St. Lawrence	Potsdam, village of	360709	740820, emergency, 820106, regular	740308
Rockland	Sloatsburg, village of	360690	750707, emergency, 820106, regular	740322
Ohio: Knox	Centerburg, village of	390307	750627, emergency, 820106, regular	740517
Oklahoma: Carter	Ardmore, city of	400031	750305, emergency, 820106, regular	740329
Oregon:				
Washington	Cornelius, city of	410261	780419, emergency, 820106, regular	761105
do	Durham, city of	410263	791107, emergency, 820106, regular	761112
do	Sherwood, town of	410273	810204, emergency, 820106, regular	760813
Clackamas	Wilsonville, city of	410025	750430, emergency, 820106, regular	740329
Pennsylvania				
Lancaster	Columbia, borough of	420543	730309, emergency, 820106, regular	730615
York	Hanover, borough of	422212	740702, emergency, 820106, regular	770520
Snyder	Middlecreek, township of	422037	741021, emergency, 820106, regular	750110
Fayette	Redstone, township of	421635	750516, emergency, 820106, regular	750117

State and county	Location	Community No.	Effective date of authorization of sale of flood insurance for area [1]	Hazard area identified
South Carolina: Dorchester	Dorchester county [2]	450068	800411, emergency, 820106, regular	771223
Texas: Fort Bend	Missouri City, city of	480304	730829, emergency, 820106, regular	750117
Vermont: Chittenden	Milton, town of	500038	741111, emergency, 820106, regular	770415
Wisconsin: Washington	Kewaskum, village of	550474	750707, emergency, 820106, regular	731228
Alabama: Montgomery	Montgomery, city of	010174	740212, emergency, 820120, regular	740628
Arkansas:				
Pulaski	Alexander, town of	050377	800926, emergency, 820120, regular	750418
Washington	Fayetteville, city of	050216	740726, emergency, 820120, regular	731228
Randolph	Pocahontas, city of	050183	740925, emergency, 820120, regular	731116
California:				
San Luis Obispo	Atascadero, city of	060700	810514, emergency, 820120, regular	800916
Imperial	Calexico, city of	060067	750730, emergency, 820120, regular	740201
Kern	California City, city of	060440	780306, emergency, 820120, regular	770415
Imperial	Holtville, city of	060070	750710, emergency, 820120, regular	740405
Sonoma	Sonoma County [2]	060375	710827, emergency, 820120, regular	0
Siskiyou	Weed, city of	060649	810910, emergency, 820120, regular	810120
Florida: Hendry	La Belle, city of	120109	740730, emergency, 820120, regular	740116
Idaho:				
Nez Perce	Culdesac, city of	160102	741114, emergency, 820120, regular	741018
do	Lewiston, city of	160104	740726, emergency, 820120, regular	740816
do	Peck, city of	160105	750611, emergency, 820120, regular	740816
Illinois: Rock Island	Andalusia, village of	170583	750218, emergency, 820120, regular	740315
Massachusetts:				
Plymouth	Hanson, town of	250267	750403, emergency, 820120, regular	741108
Worcester	Oxford, town of	250325	750724, emergency, 820120, regular	740628
New Jersey:				
Hunterdon	Delaware, township of	340506	741021, emergency, 820120, regular	761029
Monmouth	Millstone, township of	340314	750723, emergency, 820120, regular	740329
Gloucester	Monroe, township of	340208	740812, emergency, 820120, regular	740920
Bergen	Northvale, borough of	340056	740115, emergency, 820120, regular	730831
Camden	Winslow, township of	340148	750731, emergency, 820120, regular	740726
Burlington	Woodland, township of	340551	760219, emergency, 820120, regular	750425
New Mexico: Roosevelt	Portales, city of	350054	741029, emergency, 820120, regular	740329
New York:				
Erie	Hamburg, village of	360243	770217, emergency, 820120, regular	761029
Livingston	Leicester, town of	361285	780324, emergency, 820120, regular	741018
Oswego	West Monroe, town of	360664	751003, emergency, 820120, regular	740920
Livingston	York, town of	361289	750707, emergency, 820120, regular	741129
Oklahoma:				
Oklahoma	Nichols Hills, city of	400423	741219, emergency, 820120, regular	741220
LeFlore	Poteau, city of	400093	751124, emergency, 820120, regular	741101
Sequoyah	Roland, town of	400198	751117, emergency, 820120, regular	760709
Pennsylvania:				
Westmoreland	Avonmore, borough of	420872	750729, emergency, 820120, regular	740201
Lebanon	Heidelberg, township of	420969	730827, emergency, 820120, regular	740628
Snyder	Jackson, township of	422036	750407, emergency, 820120, regular	741122
Westmoreland	Loyalhanna, township of	422190	751202, emergency, 820120, regular	740913
Montgomery	Trappe, borough of	421907	750120, emergency, 820120, regular	741115
do	Upper Hanover, township of	421917	750213, emergency, 820120, regular	741122
Fayette	Washington, township of	421641	750221, emergency, 820120, regular	741220
Lackawanna	West Ablington, township of	421760	790904, emergency, 820120, regular	741220
Texas: Bee	Beeville, city of	480027	740114, emergency, 820120, regular	740510
Vermont: Franklin	Fairfax, town of	500052	750707, emergency, 820120, regular	740517
Missouri: Cole	Cole County	290107	820121, emergency, 820121, regular	801216
Total—92				

[1] Key for reading 4th column (effective date): First two digits designate the year; middle two digits designate the month; and the last two digits designate the day.
[2] Disaster community.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 3, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3787 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 6252]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended effective the dates listed within this rule because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard E. Sanderson, Chief, Natural Hazards Division, (202) 287–0270, 500 C Street Southwest, Donohoe Building, Room 505, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an

appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date flood insurance is no longer available in the community.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Federal Emergency Management Agency's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

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

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

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a signficiant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in non-compliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

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

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood Insurance in community	Special flood hazard area identified	Date [1]
Alabama: Jefferson	Unincorporated areas	010217B	May 1, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	July 7, 1978	Feb. 17, 1982.
Connecticut: Litchfield	Harwinton, town of	090147B	July 23, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 28, 1974 and Oct. 22, 1976.	Do.
Idaho:					
Kootenai	Post Falls, city of	160083B	June 16, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Jan. 9, 1974 and May 21, 1976.	Do.
Bonner	Priest River, city of	160026B	May 16, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 28, 1974 and Dec. 5, 1975.	Do.
Louisiana:					
Tangipahoa Parish	Hammond, city of	220208B	Apr. 14, 1975, emergency; Dec. 15, 1981, regular; Feb. 17, 1982, suspended.	Dec. 15, 1981	Do.
Livingston	Walker, town of	220121A	June 26, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Oct. 1, 1976	Do.
Maryland: Washington	Hancock, town of	240109B	Sept. 15, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Aug. 9, 1974 and Dec. 19, 1975.	Do.
Michigan: Wayne	Allen Park, city of	260217B	Mar. 23, 1973, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	May 3, 1974 and Jan. 10, 1975.	Do.
Minnesota: Hennepin	Brooklyn Center, city of	270151B	July 29, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Nov. 9, 1973 and July 9, 1976.	Do.
New Jersey:					
Burlington	Bordentown, city of	340087B	May 16, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 20, 1974 and May 28, 1976.	Do.
Burlington	Burlington, township of	340090B	July 29, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 26, 1974 and Jan. 14, 1977.	Do.
Bergen	Tenafly, borough of	340076C	Apr. 21, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Jan. 16, 1974 and Oct. 24, 1975.	Do.
New York:					
Oswego	New Haven, town of	360655B	Dec. 23, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	July 19, 1974 and April 23, 1976.	Do.
Tioga	Nichols, town of	360837B	Aug. 6, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 28, 1974 and Oct. 3, 1975.	Do.
Oswego	Phoenix, village of	360658B	Mar. 10, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Mar. 22, 1974	Do.
Onondaga	Skaneateles, village of	360593B	Aug. 7, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	May 31, 1974 and June 18, 1976.	Do.
Broome	Windsor, village of	360060B	June 19, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 19, 1975 and Oct. 24, 1975.	Do.
North Carolina:					
Cumberland	Unincorporated areas	370076B	Nov. 3, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 13, 1974 and July 28, 1978.	Do.
Lenoir & Pitt	Grifton, town of	370192B	Apr. 10, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 17, 1973 and Jan. 23, 1976.	Do.
Wayne & Duplin	Mt. Olive, town of	370369B	July 10, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	July 10, 1975 and June 17, 1977.	Do.
Wayne	Seven Springs, town of	370392A	Sept. 4, 1979, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	July 15, 1977	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Oklahoma: Tulsa	Jenks, city of	400209B	Nov. 1, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Jan. 9, 1974 and May 21, 1976.	Do.
Oregon: Washington	Tualatin, city of	410277C	July 3, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	May 20, 1977 and May 2, 1978.	Do.
Pennsylvania:					
Fayette	Brownsville, township of	421621A	July 9, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 20, 1974	Do.
Montgomery	Bryn Athyn, borough of	421899A	Mar. 10, 1976, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 20, 1974	Do.
Chester	East Coventry, township of	421478B	Dec. 3, 1975, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Oct. 18, 1974 and Mar. 19, 1976.	Do.
Lycoming	Hepburn, township of	420640B	June 19, 1973, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	May 10, 1974 and Sept. 24, 1976.	Do.
Adams	Latimore, township of	421162B	Apr. 26, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 20, 1974 and June 1, 1979.	Do.
Westmoreland [2]	Lower Burrell, city of	420885B	Sept. 9, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 18, 1976 and June 28, 1974.	Do.
Do	Murrysville, municipality of	421207A	May 23, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Nov. 5, 1976	Do.
Erie	Waterford, township of	422419A	Mar. 22, 1976, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Jan. 24, 1975	Do.
Washington: Thurston	Olympia, city of	530191B	Oct. 3, 1974, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	June 28, 1974 and May 7, 1976.	Do.
Wisconsin:					
Brown	Howard, village of	550023B	Mar. 8, 1976, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Dec. 28, 1973 and May 14, 1976.	Do.
Kenosha	Unincorporated areas	550523A	Dec. 12, 1973, emergency; Feb. 17, 1982, regular; Feb. 17, 1982, suspended.	Apr. 16, 1976	Do.
Ozaukee	Port Washington, city of	550316B	June 30, 1975, emergency; Oct. 15, 1981, regular; Feb. 17, 1982, suspended.	June 11, 1976 and Oct. 15, 1981.	Do.
Vermont: Washington	Montpelier, city of	505518	Oct. 20, 1972, emergency; June 22, 1973, regular; Feb. 17, 1982, suspended.	July 1, 1974	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: February 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-4007 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

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

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county (Docket No.)	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Florida	Pinellas Park (City), Pinellas County FEMA—5965	Boca Ciega Bay	Intersectioin of Canal Street and Tulane Avenue	*11
			Intersection of 113th Place and 64th Street	*11
		Tampa Bay	Area along 28th Street North within the corporate limits.	*10
		Ditch 1	Area east of 58th Street North, north of 94th Terrace North and north and west of Ditch 1 drainage line.	*11
		Ditch 1A	Area north of Ditch 1A, and bounded on the west by 52nd Street North, and on the east by Disston Boulevard.	*14
		Ditch 2	Intersection of 74th Avenue North, Park Boulevard and 43rd Street.	*16
		Ditch 2A	Area north of 88th Avenue North, and bounded on the west by Disston Boulevard and on the east by U.S. Highway 19.	*13
		Ditch 4	Intersection of 66th Avenue North and 62nd Street North.	*15
		Ditch 5	Intersection of 62nd Way North and 76th Avenue North.	*15

Maps available for inspection at City Hall, 5141 78th Avenue, Pinellas Park, Florida.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 28, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-4017 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-573; RM-3841]

FM Broadcast Station in Sidney, Nebraska; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes a Class C FM channel for a Class A channel at Sidney, Nebraska, and modifies the license of the Class A station, KSID–FM, to specify the Class C channel, at the request of the licensee, KSID Radio, Inc. The Class C assignment will provide a first nighttime aural service to certain persons.

DATE: Effective March 22, 1982.

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

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

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Sidney, Nebraska), BC Docket No. 81–573, RM–3841.

Report and Order—Proceeding Terminated

Adopted: January 28, 1982.

Released: February 5, 1982.

1. The Commission has under consideration a Notice of Proposed Rule Making, 46 FR 43211, published August 27, 1981, proposing the substitution of Class C FM Channel 254 for Channel 237A at Sidney, Nebraska, in response to a petition filed by KSID Radio, Inc. ("petitioner"). The Notice also proposed modification of the license for Channel 237A to specify operation on Channel 254. Petitioner submitted comments, restating its interest in the Class C channel. No oppositions to the proposal were received.

2. Sidney (population 6,010),[1] seat of Cheyenne County (population 10,057), is located approximately 584 kilometers (365 miles) west of Omaha, Nebraska. It is served locally by fulltime AM Station KSID and FM Station KSID–FM (Channel 237), both licensed to the petitioner.

3. In its comments, petitioner incorporated by reference the information contained in the Notice which demonstrated the need for a Class C assignment. As indicated in the Notice, the Class C assignment would provide a first nighttime aural service to 2,339 persons living in an area of 416 square miles, and a second nighttime aural service to 2,647 persons living in an area of 738 square miles.

4. The Notice requested the petitioner to submit a preclusion study for Channel 254 and a list of alternate channels available to the communities precluded by the proposed assignment. The information submitted shows that eleven communities with a population greater than 1,000, having no FM assignment, will be affected by the proposal.[2] Petitioner states that at least two alternate channels are available to each of the precluded communities.

5. After careful consideration of the proposal, we believe that the public interest would be served by the substitution of channels, inasmuch as it would provide substantial first and second service to the surrounding area and population. Since alternate channels are available to the precluded communities, we consider the preclusion impact insignificant. We have also authorized, in paragraph 7, a modification of the petitioner's license for Station KSID–FM to specify

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

[2] The communities include: Oakley and Sharon, Kansas; Edgemont, Martin and Pine Ridge, South Dakota; and Bayard, Chappell, Crawford, Gering, Oshkosh, and Rushville, Nebraska.

operation on Channel 254, since there has been no other expression of interest in the Class C channel. See Cheyenne, Wyoming, 62 FCC 2d 63 (1976).

6. 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 § 0.281 of the Commission's rules, it is ordered, that effective March 22, 1982, the FM Table of Assignments, § 73.202(b) of the rules, is amended with regard to the community of Sidney, Nebraska, as follows:

City	Channel No.
Sidney, Nebraska	254

7. It is further ordered, that pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by KSID Radio, Inc. for Station KSID–FM, Sidney, Nebraska, is modified, effective March 22, 1982, to specify operation on Channel 254 instead of Channel 237A. Station KSID–FM may continue to operate on Channel 237A for one year from the effective date of this action or until it is ready to operate on Channel 254, whichever is earlier, unless the Commission sooner directs, subject to the following conditions:

(a) At least 30 days before commencing operation on Channel 254, the licensee of Station KSID–FM shall file with the Commission a minor change application for a CP (Form 301).

(b) Within 10 days after commencing operation on Channel 254, the licensee of Station KSID–FM shall submit a license application (Form 302) for the new channel.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter site or to avoid the necessity of filing an environmental impact statement where required.

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

9. 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.

Martin Blumenthal,

Acting Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82–3978 Filed 2–12–82; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 394

[BMCS Docket No. MC–36, Amdt. No. 81–1]

Accident Register; Elimination of Requirement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending the Federal Motor Carrier Safety Regulations (FMCSR) to eliminate the requirement for motor carriers to maintain an accident register. The accident register requirement duplicates other recordkeeping requirements. This action will reduce the paperwork burden on all motor carriers subject to the FMCSR.

EFFECTIVE DATE: March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 426–9767; or Mr. Gerald M. Tierney, Office of Chief Counsel, (202) 426–0346, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 394.13 of the FMCSR (49 CFR 394.13) requires every motor carrier operating in interstate or foreign commerce to maintain an accident register for at least 3 years after the date of the accident at its principal place of business. The accident register was established to provide information to assist Federal safety investigators in determining if a carrier is in compliance with the accident reporting requirements of the FMCSR and to detect possible unsafe operations. It is also a tool for motor carriers to use to promote increased accident awareness.

Every motor carrier operating in interstate or foreign commerce is required to retain a copy of each required accident report in addition to recording the information on the accident register. We have reviewed these rules and consider the requirement to record information on an accident register to be duplicative of the rule requiring the accident report itself.

Although § 394.13, requiring the maintenance of accident registers, is being rescinded, portions of paragraphs (b) and (c) will be retained and transferred to § 394.9 as paragraph (d). These remaining requirements pertain to copies of accident reports being retained at the motor carrier's principal place of business.

This amendment is being issued as a final rule without notice and opportunity for public comment because it would be contrary to the public interest to continue this unnecessary and duplicative recordkeeping requirement any longer, including the period required to conduct notice and comment rulemaking, particularly when we do not foresee that any useful comments would be submitted.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and procedures of the Department of Transportation.

In a continuing effort to reduce the paperwork burden imposed upon motor carriers, the FHWA is relieving all motor carriers of the requirement to maintain an accident register. This action will delete a recordkeeping requirement which is considered duplicative of other requirements. A cost savings will accrue to motor carriers covered by this requirement. This savings will be approximately 9,000 burden hours while no adverse impact on safety will result from this action.

This action will not have a significant economic effect because a savings of 9,000 burden hours is considered to be relatively minimal vis-a-vis the motor carrier industry as a whole or motor carriers individually. Accordingly, a full regulatory evaluation is not required.

Under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

In consideration of the foregoing, Part 394 of Title 49, Code of Federal Regulations, is amended as follows:

PART 394—NOTIFICATION AND REPORTING OF ACCIDENTS

1. The heading for Part 394 is revised to read "Notification and Reporting of Accidents."

2. A new paragraph (d) is added to § 394.9 to read as follows:

§ 394.9 Reporting of accidents.

* * * * *

(d) Accident reports as required by paragraph (a) of this section must be retained on file at the motor carrier's principal place of business for at least 3 years after the date of the accident. However, upon written request to, and with the approval of, the Associate Regional Administrator for Motor Carrier Safety of the Federal Highway Administration region in which the

motor carrier has its principal place of business, the motor carrier may maintain the copies at a regional or terminal office. The addresses and jurisdiction of the Federal Highway Administration regions are specified in § 390.40 of this subchapter.

§ 394.13 [Removed and Reserved]

3. Remove "§ 394.13 *Accident register.*" from the table of sections and remove and reserve the corresponding section from the text of Part 394.

(49 U.S.C. 304; 49 CFR 1.48(b) and 301.60)
(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: February 9, 1982.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

[FR Doc. 82-3822 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

Tanner Crab Off Alaska; Closure of Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, National Marine Fisheries Service, has determined that the desired harvest levels of Tanner crab for two areas of the South Peninsula District in Registration Area J, commonly referred to as the "Belkofski" and "Pavlof" sections, will be achieved on February 10, 1982, and February 15, 1982, respectively; and that early closure of the fishery is necessary to protect Tanner crab stocks. The Secretary of Commerce, therefore, issues this notice of closure of the fishery conservation zone portions of the "Belkofski Section" and the "Pavlof Section" in the South Peninsula District in Registration Area J to fishing for Tanner crab by vessels of the United States on February 10, 1982, and February 15, 1982, respectively, thereby adjusting the previous closing date of May 15, 1982, in order to prevent overfishing of Tanner crab stocks in the South Peninsula District.

DATES: This closure is effective from 12:00 noon, Alaska Standard Time (AST) February 10, 1982, for the "Belkofski Section," and from 12:00 noon, AST, February 15, 1982, for the "Pavlof Section," until 11:59 p.m., Alaska Daylight Time (ADT), May 15, 1982. Public comments on this notice of closure are invited until February 25, 1982, for the "Belkofski Section," and March 2, 1982, for the "Pavlof Section."

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907-586-7221.

SUPPLEMENTARY INFORMATION: The fishery management plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP), governing this fishery in the FCZ under the Magnuson Fishery Conservation and Management Act, provides for inseason adjustments, by field order, to season and area openings and closures. Implementing rules at 50 CFR 671.27(b) specify that these orders will be issued by the Secretary of Commerce under the criteria set out in that section.

50 CFR 671.26(f) establishes five districts within Registration Area J in order to prevent overfishing of individual Tanner crab stocks by allowing closure or partial closure of a particular district when the desired harvest level in that district is reached. One of these districts is the South Peninsula District for which an optimum yield (OY) for all Tanner crab of 6.0 million pounds has been approved by the Secretary of Commerce and is pending publication of a final rule in the **Federal Register**. The State of Alaska's 1981 Tanner crab index survey, however, indicates that the acceptable harvest in the South Peninsula District during the 1981-82 season should be only 4.5 million pounds. Since the season opened on December 15, 1982, 3.4 million pounds have been harvested.

Two major fishing areas, commonly referred to as the "Belkofski Section" and the "Pavlof Section", encompass the major Tanner crab production grounds of the South Peninsula District.

Catches per unit of effort (CPUE) in the "Belkofski" and the "Pavlof" sections have declined from 32 to 12 crabs per pot and 36 to 23 crabs per pot, respectively. The declining CPUE substantiates the results of the index survey and indicates that the OY for the entire South Peninsula District cannot be achieved by allowing further fishing in these two sections without harming the resources.

As of February 4, 1982, the catch and the desired harvest levels in the "Belkofski" Section are 2 million pounds and 2.5 million pounds, respectively. The desired harvest level will be reached on February 10, 1982.

As of February 4, 1982, the catch and the desired harvest levels in the "Pavlof" Section are 1.3 million pounds and 1.6 million pounds, respectively.

The desired harvest level will be reached on February 15, 1982.

In light of this information, the Regional Director, National Marine Fisheries Service, in accordance with 50 CFR 671.27(b), has determined:

1. That the actual condition of Tanner crab stocks in the South Peninsula District is substantially different from the condition that was previously anticipated; and

2. That this difference reasonably supports the need to protect those Tanner crab stocks by closing the FCZ portions of the "Belkofski" and "Pavlof" sections to further fishing for Tanner crab during the current fishing year after 12:00 noon, AST, on February 10, 1982, and 12:00 noon, AST, on February 15, 1982, respectively.

For these reasons, the FCZ portions of the "Belkofski" and "Pavlof" sections in the South Peninsula District of Registration Area J, as defined below, are closed to all fishing for Tanner crab from 12:00 noon, AST, February 10, 1982; for the "Belkofski" section, and from 12:00 noon, AST, February 15, 1982, for the "Pavlof" section until 11:59 p.m., ADT, May 15, 1982, for both sections, at which time the closure of this district prescribed in 50 CFR § 671.26(f)(2)(ii) shall begin. These sections are defined as follows:

(A) "Belkofski Section": *Means* all waters of the South Peninsula District west of the longtitude of Belkofski Point (55°04'48" N. latitude, 162°02'54" W. longitude).

(B) "Pavlof Section": *Means* all waters of the South Peninsula District bounded on the west by the longitude of Belkofski Point (55°04'48" N. latitude, 162°02'54" W. longitude) and bounded on the east by a line extending from Renshaw Point (55°36'30" N. latitude, 160°21'12" W. longitude) to West Head on Unga Island (55°22'48" N. latitude, 160°31' W. longitude) and extending south along the longitude of Acheredin Point on Unga Island (55°07'09" N. latitude, 160°49'18" W. longitude).

This notice is effective on February 10, 1982 and after February 16, 1982 for 48 hours through ADF&G procedures, under 50 CFR 671.27(a)(2). Under 50 CFR 671.27(b)(4), public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours

(8:00 a.m. to 4:30 p.m.) at the NMFS Alaska Regional Office, Federal Building, Room 483, 709 West Ninth Street, Juneau, Alaska 99802. The necessity of this closure will be reconsidered in light of the comments received and a subsequent notice will be published in the **Federal Register**, either confirming this field order's continued effect, modifying it, or rescinding it.

Other Matters

Certain Tanner crab stocks in the South Peninsula District will be subject to damage by overfishing unless this order takes effect promptly. I therefore find for good cause that advance notice and public comment on this order is contrary to the public interest, and that there should be no delay between its publication and its effective date.

This action is taken under the authority of regulations specified at 50 CFR 671.27, and is taken in compliance with Executive Order 12291. It is not subject to the requirements of the Regulatory Flexibility Act. In addition, it does not contain any collection of information request, as defined in the Paperwork Reduction Act of 1980.

(16 U.S.C. 1801 et seq.)

Dated: February 10, 1982.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-4052 Filed 2-10-82; 5:05 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 47, No. 31
Tuesday, February 16, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

[Docket No. PRM-73-8]

Elimination of Required Search of Hand-Carried Packages of Personnel at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Wisconsin Electric Power Company, et al.

SUMMARY: The Nuclear Regulatory Commission is publishing for comment a petition for rulemaking dated December 2, 1981 filed on behalf of the Wisconsin Electric Power Company, et al. The petition requests changes in 10 CFR Part 73, "Physical Protection of Plants and Material," which would eliminate "* * * the requirement for searches of hand-carried personal effects of screened employees entering a protected area" of a nuclear power plant. The petitioners contend that the "* * * requirement is unnecessary as demonstrated by the absence of such searches in comparable Federal programs. The requirement is also an ineffective means of preventing insiders from sabotaging the plant." The petition includes proposed amendatory text which would achieve this requested change.

DATES: Comments must be received on or before April 19, 1982. Comments received after April 19, 1982, will be considered if practical to do so but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street, NW., Washington, D.C., between 8:15 a.m. and 5:00 p.m. A copy of the petition and the memorandum in support of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. Comments on the petition may be inspected and copied at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-7086. Toll-free: (800) 368-5642.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has received a petition for rulemaking filed on behalf of the Wisconsin Electric Power Company, the Public Service Electric and Gas Company, the Commonwealth Edison Company, the Yankee Atomic Electric Company, the Northern States Power Company, and the Sacramento Municipal Utility District which would amend 10 CFR Part 73, "Physical Protection of Plants and Material," specifically § 73.55(d)(2), to eliminate "* * * the requirement for searches of hand-carried personal effects of screened employees entering a protected area" of a nuclear power plant.

In the memorandum in support of the petition, the petitioners review the access control requirements, other than the search of hand-carried personal effects of employees, which are set forth in § 73.55(d). The petitioners list 21 requirements, other than the search requirement, which the petitioners contend "* * * provided more than adequate control over employee access to the protected areas of * * *" nuclear power plants. The petitioners also state that most nuclear power plant licensees have implemented personnel screening programs involving a background investigation and psychological screening of employees. The petitioners also suggest that "* * * if an intelligent insider wants to attempt to sabotage a nuclear power reactor, he needs nothing from outside the plant. There are already items within the plant which would serve the same function as anything an insider could bring in. Therefore, searches of hand-carried packages for items which could be used for sabotage generally are ineffective means of providing security." The petitioners suggest that § 73.55(d) be modified "* * * to permit physical searches on suspicion and to inform all employees prior to entering a protected area that they may be search * * * (thereby giving) further assurance to the security program."

The petitioners also note that the anti-hijacking precautions in effect for all commercial airlines would appear to call for measures at least as strict as those for nuclear power plants. Yet, the petitioners state, government regulations in this area do not require searches of hand-carried personal effects of cleared or otherwise authorized employees.

Finally, petitioners contend that the search requirement creates low morale among utility employees and causes "significant delays * * * in processing large numbers of people, particularly during outages when the number of workers coming onto the site increase dramatically. This added time may result in additional costs to the utility in terms of reduced productivity or requests for additional compensation. Larger guard forces may also be required in an attempt to reduce the delay."

The petitioners included a proposed amendment to § 73.55 by adding the text included in the enclosed arrows as provided below:

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. Paragraph (d)(2) of § 73.55 is revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

* * * * *

(d) * * *

(2) At the point of personnel and vehicle access into a protected area, all hand-carried packages shall be searched for devices such as firearms, explosives, and incendiary devices, or other items which could be used for radiological sabotage, ►except those hand-carried personal effects carried by employees of the licensee who have been screened under an employee screening program consistent with American National Standard ANSI N18.17, "Industrial Security for Nuclear Power Plants," and who, at the access point are positively identified by personal recognition or show an appropriate badge containing

sufficient information to positively indicate the identity of the bearer. When the licensee has cause to suspect that such an employee is attempting to introduce firearms, explosives or incendiary devices, or other items which could be used for radiological sabotage into a protected area, the licensee shall conduct a search of the hand-carried packages of that employee. The licensees shall post signs at all points of personnel and vehicle access into a protected area informing regular employees that their hand-carried packages may be subject to search prior to entering the area.◄

* * * * *

Dated at Washington, D.C., this 9th day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-4060 Filed 2-12-82; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 73

[Docket No. PRM-73-7]

Elimination of Required Log Out of Personnel From Vital Areas of Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Wisconsin Electric Power Company, et al.

SUMMARY: The Nuclear Regulatory Commission is publishing for comment a petition for rulemaking dated December 2, 1981 filed on behalf of the Wisconsin Electric Power Company, et al. The petition requests changes in 10 CFR Part 73, "Physical Protection of Plants and Materials," which would eliminate "* * * the log out requirement at nuclear power reactors for individuals given access to normally unoccupied vital areas." The petitioners contend that the "* * * requirement not only is unnecessary from a safety standpoint, but may be detrimental to safe plant shutdown and effective plant response to other emergencies. Moreover, other more sensitive facilities have no similar requirement." The petition includes proposed amendatory text which would achieve this requested change.

DATES: Comments must be received on or before April 19, 1982. Comments received after April 19, 1982, will be considered if practical to do so but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESS: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street, NW., Washington, D.C. between 8:15 a.m. and 5:00 p.m. A copy of the petition and the memorandum in support of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Comments on the petition may be inspected and copied at the NRC's Public Document Room, 1717 H Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 492-7086. Toll-free: (800) 368-5642.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has received a petition for rulemaking filed on behalf of the Wisconsin Electric Power Company, the Public Service Electric and Gas Company, the Commonwealth Edison Company, the Yankee Atomic Electric Company, the Northern States Power Company, and the Sacramento Municipal Utility District which requests elimination of "* * * the log out requirement at nuclear power reactors for individuals given access to normally unoccupied vital areas."

The petitioners, in an accompanying memorandum in support of the petition, state that "* * * the logging out of individuals from vital areas at nuclear power plants is unnecessary in view of the other protective measures required, the absence of such a requirement for other more sensitive types of facilities, and the potential disruption of safe plant shutdown and prompt response to other emergencies."

In support of this statement, the petitioners review the requirements for nuclear power plant physical security plans set forth at §§ 73.55(d) and 73.70 and list 30 requirements, other than the log out requirement, which the petitioner contends "* * * provide more than adequate control over access to protected areas of the plant." The petitioners also note that most nuclear power plant licensees have implemented personnel screening programs involving a background investigation and psychological screening of employees. Thus, "* * * a log out requirement for regular plant personnel who have been screened, badged, searched and logged into vital areas is totally unnecessary for plant safety."

Also in support of the petition, the petitioners review other Federal agencies which have responsibilities over facilities they say are more sensitive than commercial nuclear power reactors and which do not have log out requirements for the vital areas of these facilities. These facilities include "nuclear weapons storage areas, military nuclear research facilities and many military bases * * *", which do have access control requirements but which do not include a log out requirement. The petition concludes that "if logging out is deemed unnecessary for three types of facilities, then logging out surely is unnecessary at less sensitive nuclear power reactors."

Thirdly, in support of the petition, the petitioners contend "* * * the log out requirement may be detrimental to safe plant shutdown and effective plant response to emergencies." The petitioners state that:

There are a number of log out systems presently in use at vital areas of nuclear power reactors; some, for example, require an employee to insert a computer card into a card reader on the inside of the door to the area before exiting; other systems have only a button on the inside of the area to release the door, but require an employee to insert the card into a reader on the outside of the door before leaving the area. Under either system, if an employee fails to log out of an area, he or she will be restricted from gaining access to other vital equipment or areas until security personnel have manually instructed the computer.

A number of practical problems are caused by this logging out requirement. During an emergency or when bringing the plant to safe shutdown, plant personnel may easily forget to log out of a vital area, thereby delaying their entry into other vital areas and seriously hampering effective plant responses. During heavy traffic periods when the computer is busy, the logging out process may be greatly slowed, causing frustration and preventing employees from moving quickly from one vital area to another.

Under certain log out systems, when an individual forgets to log out of one vital area and tries to enter a second vital area, an alarm is sounded and a CAS (Central Alarm Station) or SAS (Secondary Alarm Station) operator must respond. The operators are thus diverted to handling unimportant matters when they should be performing surveillance.

The log out requirement causes an additional problem in essentially doubling the use of the plant computer. During heavy traffic periods, the computers are so greatly burdened that their speed is reduced, causing inconvenience and frustration and increasing the likelihood of computer failure. Moreover, the increased wear and tear on the computer's hardware increases the incidence of component failure and required maintenance.

It has been suggested that log out information is helpful in the event of a material theft or tampering with equipment in a vital area. In such cases, it is argued, logging out identifies the exact time during which all individuals were present in a vital area and facilitates any subsequent investigation. The petitioners point out, however, that because it is often difficult to isolate the exact time when such an event may have taken place, it is necessary to investigate all persons who logged into a vital area during a period of several hours, or a day. Thus, the critical information is not when a person logged out of a vital area, but when the person logged into the area. While it is true that log out information may be somewhat useful, it will never obviate the need for a complete check of all personnel who logged into an area. More importantly, any marginal benefit from log out information is far outweighed by the danger of delay to plant emergency response time which may be caused by logging out.

The petitioners included a proposed amendment to § 73.70(d) by adding the text in the enclosed arrows as provided below.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. Paragraph (d) of § 73.70 is revised to read as follows:

73.70 Records.

* * * * *

(d) A log indicating name, badge number, time of entry, reason for entry, and time of exit of all individuals granted access to a normally unoccupied vital area, ►except that a log kept by each licensee subject to the provisions of § 73.55 need not indicate the time of exit of the above-mentioned individuals.◄

* * * * *

Dated at Washington, D.C., this 10th day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-4061 Filed 2-12-82; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Part 73

[Docket No. PRM-73-6]

Modification of Qualifications for Security Personnel of Nuclear Power Plants and Other Special Nuclear Material Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of petition for rulemaking from Wisconsin Electric Power Company, et al.

SUMMARY: The Nuclear Regulatory Commission is publishing for comment a petition for rulemaking dated December 2, 1981 filed on behalf of the Wisconsin Electric Power Company, *et al.* The petition requests changes in 10 CFR Part 73, specifically Appendix B entitled "General Criteria for Security Personnel," which would eliminate the requirement that armed security personnel at nuclear power plants or other facilities licensed to handle special nuclear material (1) carry an extra pair of eyeglasses and (2) Under an annual medical examination within the preceding thirty days of an annual physical fitness test. The petitioners contend that these requirements are "excessive and unreasonable" when compared to similar requirements for security personnel in other government agencies or in operations with security requirements commensurate with those of nuclear power plants. The petition includes proposed amendatory text which would achieve these modified requirements.

DATES: Comments must be received on or before April 19, 1982. Comments received after April 19, 1982, will be considered if practical to do so but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments may also be hand-delivered to Room 1121, 1717 H Street, N.W., Washington, D.C. between 8:15 a.m. and 5:00 p.m. A copy of the petition and the memorandum is support of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Comments on the petition may be inspected and copie at the NRC's Public Document Room, 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555. Telephone: (301) 492-7086. Toll-free: (800) 368-5642.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has received a petition for rulemaking filed on behalf of the Wisconsin Electric Power Company, the Public Service Electric and Gas Company, the Commonweatlh Edison Company, the Yankee Atomic Electric Company, the Northern States Power Company, and the Sacramento Municipal Utility District which requests changes in the qualifications for security personnel included in 10 CFR Part 73, Appendix B, entitled "General Criteria for Security Personnel."

Specifically, the changes requested would eliminate (1) the requirement that armed security personnel at nuclear power plants or other facilities licensed to handle special nuclear material carry an extra pair of eyeglasses and (2) the requirement that these security personnel undergo an annual medical examination within the preceding thirty days of an annual physical fitness test.

The petitioners, in an accompanying memorandum in support of the petition, state that "* * * the requirement for security personnel to carry an extra pair of corrective lenses is an unnecessary nuisance to those personnel. It also makes them subject to harassing inspections to check for their second set of eyeglasses or contact lenses." The petitioners also state that other Federal and state agencies, including "* * * the military services, the FBI, the Immigration Service, Bureau of Alcohol, Tobacco, and Firearms, the Customs Service, the GSA, the District of Columbia Police Department or the Maryland State Police (do not) require security personnel to carry an extra pair of corrective lenses if their uncorrected eyesight falls below a certain level. This NRC requirement thus appears overly stringent. Moreover, the requirement is often difficult to satisfy because carrying an extra pair of glasses often leads to breakage or loss. Consequently, compliance can become an ineffective yet costly exercise."

Regarding the requirement that security personnel undergo an annual medical examination within thirty days

of an annual physical fitness test, the petitioners "* * * suggest that the two types of test need not be tied to the same schedule, and that the frequency of medical examinations should vary with age." The petitioners do "* * * recognize the importance of regular physical fitness testing and medical examinations for security personnel * * * " and state that, under the revised language proposed in the petition, "existing requirements for additional medical examinations following serious illness, injury, disease or operation would not be affected." The petitioners review the physical fitness and medical examination requirements of the various branches of the military service, the FBI, and similar enforcement-related organziations with "* * * responsibilities of equal or greater sensitivity than those of security officers at nuclear power plants * * * (and conclude) that the present NRC requirements are excessively strict. In view of the requirements in the military and at other federal and state agencies, the petitioners recommend elimination of the Commission's present requirement tying medical examinations to physical fitness testing schedules and modification of the Commission's overly rigid medical examination schedule for young employees while maintaining all other requirements in the existing qualification program."

The petitioners included proposed amendments to the text of portions of Appendix B to Part 73, which are included below. The text in the bracketed portion would be removed and the text enclosed in arrows would be added.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. In the criteria heading of Appendix B to Part 73, sections I.B.1.b.(1)(a), I.C., and I.E. are revised to read as follows:

Appendix B—Criteria for Security Personnel

* * * * *

Criteria

I. *Employment suitability and qualification.*

* * * * *

B. *Physical and mental qualifications*—1. *Physical qualifications.*

* * * * *

b. * * *

(1) *Vision.* (a) For each individual, distant visual acuity in each eye * * * or contact lenses. [If uncorrected distance vision is not at least 20/40 in the better eye, the individual shall carry an extra pair of corrective lenses.] Near visual acuity, corrected or uncorrected, shall be at least 20/40 in the better eye. Field vision must be at least 70° horizontal meridian in each eye. The ability to distinguish red, green, and yellow colors is required. Loss of vision in one eye is disqualifying, unless controlled by acceptable medical or surgical means, provided such medications as may be used for controlling glaucoma do not cause undesirable side effects which adversely affect the individual's ability to perform assigned security job duties, and provided the visual acuity and field of vision requirements stated above are met. On-the-job evaluation shall be used for individuals who exhibit a mild color vision defect.

* * * * *

C. *Physical fitness qualifications*—[Subject to a medical examination conducted within the preceding 30 days * * * as disclosed by the medical examination,] Guards, armed response personnel and armed escorts, shall demonstrate physical fitness for assigned job duties by performing a practical physical exercise program within a specific time period. The exercise program performance objectives shall be described in the licensee training and qualification plan, and shall consider such job related functions as strenuous activity, physical exertion, levels of stress, and exposure to the elements as they pertain to each individual's assigned security job duties for both normal and emergency operations. The physical fitness qualifications of each guard, armed response person, and armed escort shall be documented and attested by a licensee security supervisor.

* * * * *

E. *Physical requalification*—At least every 12 months, [central alarm station operators shall be required to meet the physical requirements of B.1.b. of this section and] guards, armed response personnel and armed escorts, shall be required to meet the physical requirements of paragraphs [B.1.b. (1) and (2), and] C of this section. ►At least every 36 months until the age of thirty-nine, and every 12 months after the age of thirty-nine, guards, armed response personnel, and armed escorts shall be required to meet the physical requirements of paragraphs B.1.b. (1) and (2) of this section, and central alarm station operators shall be required to meet the physical requirements of B.1.b. of this section.◄

* * * * *

Dated at Washington, DC, this 10th day of February 1982.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 82-4062 Filed 2-12-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD05-81-16R]

Northwest Harbor, Baltimore, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: Upon petition of Andrews, Miller, and Associates, Inc. for the Gaylord Brooks Investment Company, the Coast Guard is proposing to amend the anchorage regulations by amending the northwest boundary of the small boat anchorage ground located generally east of Fells Point and the Northwest Harbor Turning Basin. The basis for this boundary revision is to allow the construction of a 225-slip marina at Fells Point. (See Department of the Army, Baltimore District, Corps of Engineers, Public Notice NABOP-FW-81-0222-2 for details of this project.) The action will shift the northwest boundary of the small boat anchorage 50 yards to the southeast. This proposal will enhance navigation safety by separating navigating vessels from those at anchor within the anchorage ground.

DATE: Comments must be received by April 2, 1982.

ADDRESSES: Comments should be addressed to Commander (mps), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705. Comments will be available for inspection at the office of the Commander, Fifth Coast Guard District (mps), Room 412, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23705.

FOR FURTHER INFORMATION CONTACT: Captain E. E. Moran, Chief, Port Safety Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705, (804) 398-6389.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD05-81-16R) and the specific section of the proposal to which their comments apply, and give the reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed envelope is enclosed.

The proposed amendment may be changed in light of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid in the rulemaking process.

Drafting Information

The principal persons involved in drafting this notice are Lieutenant Junior Grade M. S. Kushla, Project Manager, Port Safety Branch, Fifth Coast Guard District, and Lieutenant D. M. Wrye of the office of the District Legal Officer, Fifth Coast Guard District.

Discussion of the Proposed Regulation

The anchorage ground which is proposed to be amended lies in the Northwest Harbor of Baltimore Harbor, Baltimore, Maryland to the east of Fells Point. This anchorage ground has been designated for use by small craft (100 feet in length or less) only. Adoption of this proposal would result in (1) reduction of the overall size of the anchorage ground; (2) allowing the construction of the proposed marina at Fells Point; and (3) elimination of user conflict between anchored vessels and vessels maneuvering to moor at the proposed marina.

An environmental assessment is currently being undertaken. An initial determination, however, is that this minor boundary revision would result in no impact on the quality of the human environment. The economic impact of this proposed rule on small businesses, non-profit organizations, and government entities is considered to be minimal because, if adopted, the proposed rule will result in only a small boundary revision to the small craft anchorage ground that will eliminate user conflicts within its boundaries. Thus, the change to this anchorage ground does not appear to be a matter on which there would be substantial public interest or controversy, nor does it appear to involve impacts on competition, business, State or local governments, or the regulations of other programs or agencies.

This proposed regulation has been reviewed under the provisions of Executive Order 12291 and has been determined not to be a major rule. In addition, this proposed regulation is considered to be non-significant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that this rule, if promulgated, will not have a significant economic impact upon a substantial number of small entities.

PART 110—ANCHORAGE REGULATIONS

In consideration of the foregoing, it is proposed that Part 110 of Title 33, Code of Federal Regulations, be amended by revising § 110.158(a)(9) to read as follows:

§ 110.158 Baltimore Harbor, MD.

* * * * *

(a) The anchorage grounds. * * *

(9) Small vessel anchorage—In the Northwest Harbor, north of the Turning Basin, beginning at latitude 39°16'49.5" N., longitude 76°35'06" W.; thence southeast to latitude 39°16'43" N., longitude 76°34'53.5" W.; thence southwest to latitude 39°16'36.5" N.; longitude 76°34'59" W.; thence northwest to latitude 39°16'43" N., longitude 76°35'11" W.; thence northeast to the point of beginning. This anchorage shall be used only by vessels 100 feet in length or less.

* * * * *

(Sec. 7, 38 Stat. 1053 (33 U.S.C. 471); sec. 6(g)(1), 80 Stat. 940; (49 U.S.C. 1655(g)(1), 49 CFR 146(c) and 1.45(b))

Dated: January 20, 1982.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 82-4055 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-4-FRL-2030-5]

Designation of Areas for Air Quality Planning Purposes; Alabama and Kentucky: Redesignation of Ozone Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to grant requests made by Alabama and Kentucky that the ozone attainment status of certain counties be changed from unclassifiable to attainment. The public is invited to submit comments on this proposal.

The States of Alabama and Kentucky submitted ozone air quality data for specific counties and a request that these counties be redesignated from unclassified to attainment. After reviewing the data submitted, EPA is today proposing to grant the request of Alabama and Kentucky and change the ozone designation from unclassified to attainment.

DATE: To be considered, comments must be received on or before March 18, 1982.

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

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

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

FOR FURTHER INFORMATION CONTACT: Archie Lee of the Region IV Air Programs Branch at 404/881-3043 (FTS 257-3043).

SUPPLEMENTARY INFORMATION: On July 30, 1981, the Alabama Air Pollution Control Commission submitted one full season of ozone monitoring data collected at Murphy Hill, Alabama, and requested that it be used to redesignate Jackson and DeKalb Counties attainment for this pollutant. On April 28, 1981, the Kentucky Department for Natural Resources and Environmental Protection made a similar submittal and request with respect to eight counties in that State (Allen, Butler, Edmonson, Grayson, Hart, Logan, Simpson, and Warren). On November 20, 1981 (46 FR 57046), EPA, without prior proposal of its action, changed the attainment status designation of these ten counties from unclassifiable to attainment.

In the final rule making the redesignations, EPA advised the public that the effective date of the actions was deferred for 60 days (until January 19, 1982) to provide an opportunity to submit comments on them. EPA announced that if notice were received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun by proposing the actions and establishing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received notice that someone wishes to submit adverse comments on these redesignations. Accordingly, EPA is taking final action elsewhere in today's **Federal Register** to withdraw the November 20, 1981, redesignations, and is in this notice proposing them for public comment. A more detailed description of the States' submittals and EPA's findings can be found in the November 20, 1981, rulemaking notice

(46 FR 57046). The public is invited to submit written comments on this proposal; EPA will consider all comments received within 30 days of this date before taking final action on the redesignation requests made by Alabama and Kentucky.

Pursuant to the provisions of 5 U.S.C. section 605(b), I hereby certify that the present rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements; it only changes the attainment status designation of certain area from unclassifiable to attainment.

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

(Sec. 107, Clean Air Act (42 U.S.C. 7407))

Dated: February 4, 1981.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3586 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 120

[WH-FRL 1972-1]

Withdrawal of Ohio Water Quality Standards Promulgation

AGENCY: Environmental Protection Agency.

ACTION: Proposed withdrawal of rule.

SUMMARY: The Environmental Protection Agency (EPA) today gives notice that it proposes to withdraw its Ohio Water Quality Standards, 40 CFR § 120.45(a)-(g), which, for purposes of the Clean Water Act, as amended, 33 U.S.C. 1251 *et seq.*, replaced certain of Ohio's water quality standards (45 FR 79053, November 28, 1980).

DATES: All written comments received on or before April 2, 1982, will be considered in the preparation of the final rulemaking. Comments should be submitted to the person listed immediately below.

FOR FURTHER INFORMATION CONTACT: David K. Sabock, Environmental Protection Agency, Criteria and Standards Division, Criteria Branch (WH-585), Room M-2818, 401 M Street, SW., Washington, D.C. 20460, (202)245-3042.

SUPPLEMENTARY INFORMATION: On February 14, 1978, the Ohio Environmental Protection Agency adopted revisions to the State water quality standards and submitted them to the Regional Administrator, Region V, of the EPA for review. On May 17, 1978, the Regional Administrator notified the Governor that the adopted standards did not meet the requirements of the Clean Water Act, and specified changes deemed necessary. On August 9, 1978, after the State submitted clarifications of certain of the provisions, the Regional Administrator approved certain portions of the standards but determined that other major portions of the standards remained inconsistent with the Act. On July 6, 1979 (44 FR 39486), EPA proposed water quality standards for the State to replace those provisions which had not been approved, and on November 28, 1980 (45 FR 79053), promulgated final water quality standards for Ohio.

In the November 28, 1980 promulgation for Ohio waters, EPA stated, as a partial basis for its action, that the State had not submitted sufficient evidence to justify its downgrading of stream use designations, as is required by § 35.1550(c)(3). At that time, EPA was not aware that its underlying regulation governing State downgrades of water quality standards, 40 CFR 35.1550(c)(3), had not been subjected to public notice and comment at the time of its promulgation in November 1975. Consequently, in the course of the Ohio rulemaking, EPA did not respond to those comments which dealt with the validity of the downgrade criteria set forth in 40 CFR 35.1550(c)(3). EPA has concluded that in view of the above facts, the basis for EPA's denial of the Ohio downgradings has not been adequately subjected to public notice and comment.

In addition, a number of basic program policies supporting the national water quality standards program are being reviewed and revised. Therefore, EPA has concluded that it is appropriate to withdraw all portions of the standards promulgated on November 28, 1980. If the Agency, after receiving and considering public comments, does withdraw these standards, the water quality standards adopted by the State of Ohio on February 14, 1978 will be effective for all purposes under the Clean Water Act.

Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This proposed withdrawal is not "major" because it would not impose any regulation which might have an economic impact on industry, States or municipalities.

This notice was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Dated: February 6, 1982.

Anne M. Gorsuch,

Administrator.

PART 120—WATER QUALITY STANDARDS

Section 120.45 paragraphs (a)-(g) of Part 120 of Title 40 of the Code of Federal Regulations are hereby proposed to be withdrawn.

[FR Doc. 82-4004 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-29-M

40 CFR Part 123

[WL-3-FRL-2050-2]

West Virginia's Application To Administer National Pollutant Discharge Elimination System (NPDES) Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application.

SUMMARY: The State of West Virginia has submitted a request to the Environmental Protection Agency for approval to administer the National Pollutant Discharge Elimination System (NPDES) program for regulating discharges of pollutants into waters within the State. According to the State's proposal, the NPDES program would be administered by the State of West Virginia Department of Natural Resources, Water Resources Division (WRD) under the direction of David W. Robinson. This notice provides for a public hearing and a comment period on West Virginia's request. Under EPA regulations the Administrator shall approve or disapprove a State NPDES program after taking into consideration all comments received.

DATES: Comments must be received on or before April 2, 1982. A public hearing has been scheduled for March 18, 1982, at 10:00 a.m. at the West Virginia Water Resources Division Conference Room, 1201 Greenbrier St., Charleston, West Virginia 25305.

ADDRESSES: Comments should be addressed to: Charles W. Sapp, Chief, Water Permits Branch (3WM50), U.S. EPA, Region III, 6th & Walnut Streets, Philadelphia, PA 19106.

FOR FURTHER INFORMATION CONTACT: Jeffrey W. Hass, Chief, West Virginia Section (3WM53), U.S. EPA, Region III, 6th & Walnut Streets, Philadelphia, PA 19106 215/597-9232, or Robert Collings, Esq., Chief, Water & RCRA Enforcement Section, (3RC12), U.S. EPA Region III,

6th & Walnut Streets, Philadelphia, PA 19106, 215/597–8914.

SUPPLEMENTARY INFORMATION: Section 402 of the Federal Clean Water Act created the NPDES under which the Administrator of the United States Environmental Protection Agency (EPA) may issue permits for the discharge of pollutants into waters of the United States under conditions required by that Act.

West Virginia's program submission contains a letter from the Governor requesting NPDES program approval, a complete program description (including funding, personnel requirements and organization, and enforcement procedures), an Attorney General's statement, copies of applicable State statutes and regulations, and a Memorandum of Agreement (MOA) executed by the Regional Administrator, Region III, EPA and the Chief, West Virginia Water Resources Division. Upon approval by the Administrator of EPA of West Virginia's NPDES program, the MOA, which establishes procedures for administration and enforcement of the State's program, will become effective. The Administrator is required to approve each such submitted program within 90 days of submittal unless it does not meet the requirements of section 402(b) of the Act and EPA regulations, which include, among other things, authority to issue permits which comply with the federal Act, authority to impose civil and criminal penalties for permit violations, and authority to insure that the public is given notice and opportunity for a hearing on each proposed NPDES permit issuance.

At the close of the public comment period (including the public hearing) and within the ninety (90) day statutory review period, the Administrator of EPA will decide to approve or disapprove West Virginia's NPDES program. In accordance with EPA regulations, EPA and WRD have agreed to extend the review period, if necessary, until proposed amendments to State regulations are adopted and effective. These proposed regulations comprise Appendix A to the MOA.

The decision to approve or disapprove West Virginia's NPDES program will be based on the requirements of Section 402 of the CWA and 40 CFR Part 123. If the West Virginia NPDES program is approved, the Administrator will so notify the State. Notice will be published in the **Federal Register** and, as of the date of program approval, EPA will suspend issuance of NPDES permits in West Virginia. The State's program will implement federal law and operate in lieu of the EPA administered program. However, EPA will retain the right to object to NPDES permits proposed to be issued by an approved State. If the Administrator disapproves West Virginia's NPDES program, the Administrator will notify the State of the reasons for disapproval and of any revisions or modification to the State program which are necessary to obtain approval.

The West Virginia submittal may be reviewed from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, by the public at the West Virginia Water Resources Division Office at 1201 Greenbrier Street, Charleston, West Virginia 25308, and at the EPA office in Philadelphia, Pennsylvania at the address appearing at the beginning of this Notice. Copies of the submittal may also be obtained (at a cost of 20¢/page or $125 for the entire submission) by appearing in person at either of those offices, or by writing to EPA and the West Virginia Water Resources Division at the same addresses.

A public hearing to consider the State of West Virginia's request to administer the NPDES permit program has been scheduled for March 18, 1982 at 10:00 a.m. at the West Virginia Water Resources Division conference room, 1201 Greenbrier Street, Charleston, West Virginia 25305.

The Hearing Panel will include representatives of EPA, Region III, EPA Headquarters and the West Virginia Water Resources Division.

The following are policies and procedures which shall be observed at the public hearing:

(1) The Presiding Officer shall conduct the hearing in a manner that permits open and full discussion of any issues involved;

(2) Any person may submit written statements or documents for the record;

(3) The Presiding Officer may, in his discretion, exclude oral testimony if such testimony is overly repetitious of previous testimony or is not relevant to the decision to approve or require revision of the submitted State program;

(4) Members of the Hearing Panel may ask questions of witnesses and respond to questions and statements of witnesses;

(5) The transcript taken at the hearing, together with copies of all submitted statements and documents, shall become a part of the record submitted to the Administrator; and

(6) The hearing record shall be left open until April 2, 1982, as described below, to permit any person to submit additional written statement or to present views or evidence tending to rebut testimony presented at the public hearing; immediately following the public comment period the Regional Administrator shall forward a copy of the complete hearing record to the Administrator.

Hearing statements may be oral or written. Written copies of oral statements are urged for accuracy of the record and for the use of the hearing panel and other interested persons. Statements should summarize any extensive written materials.

All comments or objections received by EPA Region III by April 2, 1982 or presented at the public hearing will be considered by EPA before taking final action on the West Virginia Request for State Program Approval.

Please bring the foregoing to the attention of persons whom you know will be interested in this matter. All written comments and questions on the hearing or the NPDES program should be addressed to Robert L. Collings, Esq., Chief, Water & RCRA Enforcement Section (3RC12) U.S. EPA Region III, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of the West Virginia NPDES permit program, merely transfers responsibilities for administration of permitted facilities from the Federal to State government. No new substantive requirements are established by this action. Therefore, since this notice does not have a significant impact on a substantial number of small entities, it does not trigger the requirements of a Regulatory Flexibility Analysis.

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

Albert Montagne,

Acting Regional Administrator, Region III.

[FR Doc. 82–4006 Filed 2–12–82; 8:45 am]

BILLING CODE 6560–38–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6247]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4 (a)).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
The proposed based (100-year) flood elevations for selected locations are:				
California	Dinuba (City), Tulare County	Shallow Flooding	Intersection of Tulare Street and K Street	#1
			Intersection of P Street and Tular Street	#2
Maps available for inspection at Department of Public Works, 405 East El Monte, Dinuba, California.				
Send comments to the Honorable Jack Conway, 405 East El Monte, Dinuba, California 93618.				
Colorado	Canon City (City), Fremont County	Arkansas River	Intersection of Riverside Avenue and Plum Street	*5,340
		Northeast Canon Drainage—East Branch.	Intersection of East Circle Drive and West Circle Drive	*5,335
		Northeast Canon Drainage—West Branch.	Intersection of Allison Avenue and Fifteenth Street	*5,340
		Southeast Canon Drainage	Intersection of Ninth Street and Griffin Avenue	*5,330
		Sand Creek	Intersection of U.S. Highway 50 and Canal Street	*5,370
		Forked Gulch	150 feet upstream from center of Pennsylvania Avenue.	*5,375
		West Forked Gulch	150 feet upstream from northernmost corporate limits	*5,330
Maps available for inspection at City Engineer's Office, 612 Royal Gorge Boulevard, Canon City, Colorado.				
Send comments to the Honorable George Turner, Box 711, Canon City, Colorado 81212.				
Connecticut	New Fairfield, Town, Fairfield County	Ball Pond Brook	Confluence with Lake Candlewood	*441
			Upstream of Musket Ridge Road	*482
			Upstream of Saw Mill Road	*519
			Upstream of State Route 39	*579
			Upstream of Overbrook Drive	*609
			Upstream of Ball Pond Road	*644
			Upstream of Meadowbrook Road	*684
Maps available for inspection at the First Selectman's Office, Town of New Fairfield, Town Hall, New Fairfield, Connecticut.				
Send comments to the Honorable John Fairchild, First Selectman of the Town of New Fairfield, Town Hall, New Fairfield, Connecticut 06810				
Florida	Lantana (Town), Palm Beach County	Atlantic Ocean—Open Coast	Approximately 520 feet east of the intersection of State Highway AIA and East Ocean Avenue.	*10
		Atlantic Ocean—Lake Worth	Eastern end of Naomi Circle	*9
			intersection of Prospect Road and Lakeside Place	*8

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Intersection of South Atlantic Drive West and South Atlantic Drive East.	*8
			Intersection of Atlantic Drive West and Barefoot Lane	*7
Maps available for inspection at Town Hall, Greynolds Circle, Lantana, Florida.				
Send comments to the Honorable L. Irving Ashauer, P.O. Box 3043, Lantana, Florida 33462.				
Florida	Pahokee (Town), Palm Beach County	Lake Okeechobee	Approximately 900 feet west of the intersection of 14th Terrace and State Highway 715.	*28
			Approximately 700 feet north of the intersection of Pahokee Road and Barfield Higway.	*28
Maps available for inspection at Building Department, 171 N. Lake Ave., Pahokee, Florida.				
Send comments to the Honorable Duncan Padgett, P.O. Drawer X, Pahokee, Florida 33476.				
Florida	Palm Beach County (Unincorporated Areas)	Atlantic Ocean—Open Coast	Approximately 550 feet east of the intersection of Del Habour Drive and Ocean Boulevard.	*10
		Atlantic ocean—Intracoastal Waterway.	Intersection of Harbor Road and Harbor Road South	*7
			Eastern end of Palm Court	*6
			Southern end of Waterway Road	*6
		Atlantic Ocean—Lake Worth and Little Lake Worth.	Intersection of Captains Landing and Captain's Key Drive.	*7
			Northern end of Lake Shore Place	*8
			Intersection of Lost Tree Way and Church Lane	*7
		Atlantic Ocean—Loxahatchee River (including North, Northwest, and Southwest Forks).	Intersection of North Drive and Riverside Boulevard	*6
			Southern end of Holly Lane	*7
			Intersection of Woodridge Terrace and Center Street	*6
		Lake Okeechobee	Approximately 2,000 feet west of intersection of Hooker Highway and Herbert Hoover Dike.	*30
Maps available for inspection at Planning, Building & Zoning Department, 810 Datuna Street, West Palm Beach, Florida.				
Send comments to the Honorable Frank Foster, P.O. Box 1989, West Palm Beach, Florida 33402				
Idaho	Idaho Falls (City), Bonneville County	Snake River	Crest of Lower Power Dam	*4,677
Maps available for inspection at Mayor's Office, 308 C Street, Idaho Falls, Idaho.				
Send comments to the Honorable Thomas Campbell, P.O. Box 220, Idaho Falls, Idaho 83402.				
Illinois	(V) Elwood, Will County	Jackson Creek	Just upstream of Brandon Road	*590
			About 1,200 feet downstream of Manhattan Road	*599
Maps available for inspection at the Village Hall, Mississippi Avenue, Elwood, Illinois.				
Send comments to Honorable Dale Archer, Village President, Village of Elwood, Village Hall, Box 435, Mississippi Avenue, Elwood, Illinois 60421.				
Illinois	(Uninc.) Lake County	Des Plaines River	At southern county boundary	*642
			Just upstream of Buckley Road	*659
			At state boundary	*674
			At confluence with Des Plaines River	*673
		Des Plaines River Tributary (at Russell).	Just upstream of Kilbourne Road	*676
			Just upstream of State Highway 173	*692
			Just upstream of Stiehr Road	*703
			Just downstream of Wadworth Road	*709
			Just upstream of Wadworth Road	*713
		East Fork Des Plaines River Tributary (at Russell).	At confluence with Des Plaines River Tributary (at Russell).	*685
			Just downstream of State Highway 173	*701
			Just downstream of 21st Street	*709
			Just upstream of 21st Street	*713
			Just downstream of Waverly Street	*722
			Just upstream of Waverly Street	*727
		Skokie River	About 3,800 feet downstream of Elgin, Joliet and Eastern Railway.	*670
			Just upstream of Buckley Road	*684
			About 1,400 feet upstream of Buckley Road	*687
		Middle Fork North Branch Chicago River.	About 1,300 feet downstream of Half Day Road	*658
			About 1,200 feet upstream of Half Day Road	*659
			About 2.7 miles downstream of State Highway 176	*668
			Just downstream of Elgin, Joliet and Eastern railway	*674
			About 200 feet downstream of Buckley Road	*692
		West Fork North Branch Chicago River.	About 1,200 feet downstream of Montgomery Drive	*663
			About 200 feet downstream of Half Day Road	*667
			Just upstream of Half Day Road	*670
		Hastings Creek	Just upstream of Unnamed Road (about 2,050 feet downstream of U.S. Highway 45).	*744
			About 1,000 feet downstream of State Highway 132	*766
			Just upstream of State Highway 132	*775
			About 1.9 miles upstream of State Highway 132	*782
		Mill Creek	Just upstream of U.S. Highway 41	*668
			Just downstream of spillway downstream of Stearns School Road.	*711
			Just upstream of spillway downstream of Stearns School Road.	*719
			Just downstream of spillway downstream of Grandwood Drive.	*750
			Just upstream of U.S. Highway 45	*763
			About 4,000 feet downstream of Center Street	*773
			About 2.5 miles upstream of Center Street	*787
		North Mill Creek	About 0.5 mile downstream of Millburn Road	*694

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Kelley Road	*724
			About 800 feet upstream of Kelley Road (upstream of dam).	*741
			At state boundary	*758
		Fox River	At confluence of Flint Creek	*737
			At state boundary	*743
		Buffalo Creek	Just upstream of Arlington Heights Road	*691
			Just upstream of Quentin Road	*784
			At downstream corporate limits of the Village of Lake Zurich.	*816
		Tributary to Buffalo Creek	About 550 feet downstream of Quentin Road	*772
			About 675 feet upstream of Quentin Road	*779
		Mutton Creek	About 1,050 feet downstream of Gravel Pit Road	*754
			Just downstream of Gravel Pit Road	*755
			Just downstream of Darrel Road	*759
		Indian Creek	Just downstream of footbridge (about 1,650 feet upstream of mouth at Des Plaines River).	*648
			About 200 feet upstream of confluence of Seavey Drainage Ditch.	*648
			About 500 feet downstream of confluence of West Branch Indian Creek.	*730
			About 100 feet downstream of spillway for Countryside Lake.	*776
			Just upstream of spillway for Countryside Lake	*786
			Just downstream of Chevy Chase Road	*790
			Just upstream of Chevy Chase Road	*795
			Just downsteam of Gilmer Road	*808
			Just upstream of Gilmer Road	*819
			Just downstream of Schwerman Road	*838
		West Branch Indian Creek	About 3,325 feet downstream of Gilmer Road	*734
			Just downstream of spillway	*775
			Just upstream of spillway	*789
			Just downstream of Elgin, Joliet and Eastern railway	*796
		South Branch Indian Creek	At mouth at Indian Creek	*680
			Just downstream of State Highway 22	*691
			Just upstream of State Highway 83	*696
			About 1.1 miles upstream of Old McHenry Road	*748
			Just upstream of State Highway 22	*758
		Aptakisic Creek	Mouth at Des Plaines River	*643
			About 1.0 mile upstream of Pekara Road	*648
			Just downstream of Weiland Road	*671
			Just upstream of Busch Road (Village of Buffalo Grove corporate limit).	*678
			About 450 feet upstream of confluence of tributary to Aptakisic Creek.	*679
		Tributary to Aptakisic Creek	About 1,500 feet upstream of Aptakisic Road	*681
		Irondale Creek	Mouth at Meadow Haven Creek	*663
			Just downstream of Guerin Road	*663
		Meadow Haven Creek	Mouth at Tributary No. 1	*658
			Just downstream of Guerin Road	*679
			Just downstream of O'plaine Road	*688
		Flint Creek	About 2,400 feet upstream of confluence with Fox River.	*737
			Just upstream of footbridge (about 3,000 feet upstream of mouth at Fox River).	*741
			Just downstream of U.S. Highway 14	*765
		Eagle Creek	About 0.9 mile downstream of Cedar Lake Road	*772
			About 1,225 feet upstream of Cedar Lake Road	*784
		Bull Creek	About 1,300 feet upstream of mouth at Des Plaines River.	*659
			About 0.5 mile upstream of confluence of Bull Creek Tributary.	*686
			Just upstream of Midlothian Road	*780
			About 0.8 mile upstream of Midlothian Road	*798
		Bull Creek Tributary	About 250 feet upstream of mouth at Bull Creek	*678
			About 150 feet upstream of Countryside Drive	*719
			About 1,800 feet upstream of State Highway 137	*747
		North Branch Bull Creek Tributary	Mouth at Bull Creek Tributary	*723
			About 1,200 feet upstream of Bull Creek Drive	*733
		West Branch Bull Creek Tributary	Mouth at Bull Creek Tributary	*727
			Just upstream of Bull Creek Drive	*745
		Greenleaf Creek	About 100 feet upstream of Washington Street	*688
			About 1,450 feet upstream of Washington Street	*691
			About 200 feet upstream of Greenleaf Street	*700
		Nippersink Creek	About 3,500 feet downstream of western county boundary.	*742
			At western county boundary	*744
		Sequoit Creek	About 300 feet downstream of Tiffany Road	*751
			About 1,000 feet upstream of Soo Line Railroad	*765
			About 100 feet downstream of State Highway 173	*768
		Squaw Creek	Just upstream of State Highway 59	*742
			About 1.2 miles upstream of State Highway 134	*746
			Just upstream of Nippersink Road	*758
			Just upstream of Fairfield Road	*766
			About 1.5 miles upstream of Town Line Road	*784
		Willow Road Creek	About 1,500 feet upstream of confluence with Bangs Lake Drain.	*766

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 3,800 feet upstream of confluence with Bangs Lake Drain.	*774
		Garland Road	Within unincorporated Area	*776
		Suburban Country Club Tributary	At mouth at Des Plaines River	*665
			Just upstream of Chicago and North Wester railroad	*671
			Just downsteam of Beach Road	*701
		South Fork Suburban Country Club Tributary.	At confluence with Suburban Country Club Tributary	*678
			Just upstream of Wall Avenue	*699
		Tower Lake Creek	Within unincorporated area	*737
		Tributary No.1	About 1,800 feet upstream of Buckley Road	*656
			About 3,000 feet upstream of Guerin Road	*676
		Kimball Avenue Tributary	Within unincorporated area	*776
		Farrington Ditch	Just upstream of Checker Road	*679
			About 2,650 feet upstream of Checker Road	*681
		Seavey Drainage Ditch	Just downstream of U.S. Highway 45	*676
			Just upstream of Lake Charles spillway	*696
			About 2,500 feet upstream of Butterfield Road	*712
		Diamond Lake Drain	Just upstream of State Highway 83	*712
			About 1,200 feet upstream of Elgin, Joliet and Eastern railway.	*728
		Deer Lake Drain	At state boundary	*760
			Just upstream of Deer Lake Dam	*769
			Just upstream of Dam No. 2	*772
		Forest Lake Drain	About 1,200 feet upstream of mouth at Indian Creek	*727
			Just upstream of Gilmer Road	*737
			About 2,400 feet upstream of Gilmer Road	*742
		North Shore Drain	Within unincorporated area	*789
		Round Lake Drain	At mouth at Long Lake	*743
			Just upstream of confluence of Round Lake Drain Tributary.	*749
		Round Lake Drain Tributary	About 1,080 feet upstream of mouth at Round Lake Drain.	*751
		Bangs Lake Drain	Just downstream of County Highway 44	*744
			Just downstream of Mac Street	*752
			Just upstream of Mac Street	*757
			About 100 feet upstream of Brown Street	*771
			At confluence of Garland Road Tributary	*776
		Silver Lake	At mouth at Sequoit Creek	*766
			About 2,300 feet upstream of mouth at Sequoit Creek	*767
		Kellogg Ravine	About 3,000 feet downstream of abandoned railroad	*644
			About 300 feet upstream of Kenosha Road	*691
		Slocum Lake Drain	Within community	*737
		North Shore Ditch	Just upstream of Blanchard Road	*651
			About 2,400 feet upstream of Blanchard Road	*654
		Bull Creek (near Waukegan)	Just upstream of Chicago and North Western railroad	*607
			Just upstream of Sheridan Road	*614
			Just downstream of Talmadge Avenue	*620
			Just upstream of Talmadge Avenue	*627
			Just downstream of Beach Road	*632
			Just upstream of Beach Road	*638
			About 1,600 feet upstream of Dewoody Avenue	*670
		North Arm Flint Creek	Within unincorporated area	*756
		Lake Michigan	Shoreline	*584
		Round Lake	Shoreline	*765
		Diamond Lake	Shoreline	*742
		Sun Lake	Shoreline	*779
		Cedar Lake	Shoreline	*791
		Deep Lake	Shoreline	*780
		Cross Lake	Shoreline	*813
		Channel Lake	Shoreline	*742
		Lake Catherine	Shoreline	*742
		Lake Marie	Shoreline	*742
		Grass Lake	Shoreline	*742
		Bluff Lake	Shoreline	*742
		Petite Lake	Shoreline	*742
		Antioch Lake	Shoreline	*757
		Slocum Lake	Shorelne	*738
		Fox Lake	Shoreline	*742
		Nippersink Lake	Shoreline	*742
		Duck Lake	Shoreline	*742
		Pistakee Lake	Shoreline	*741
		Brandenburg Lake	Shoreline	*741
		Redhead Lake	Shoreline	*741
		Shallow Flooding from Northwest Retention Basin.	About 1,000 feet south of intersection of Lake Shore Drive and Druce Lake Road.	*783

Maps available for inspection at the Lake County Department of Planning, Zoning and Environmental Quality, County Building, Room A803, 18 N. County Street, Waukegan, Illinois.

Send comments to Honorable Glenn Miller, Chairman of the Lake County Board, Lake County, County Building, 18 North County Street, Waukegan, Illinois 60085.

Illinois	(V) Manhattan, Will County	Manhattan Creek	Just downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*666
			Just downstream of Eastern Avenue	*680

Maps available for inspection at the Village Hall, 245 State Street, Manhattan, Illinois.

Send comments to Honorable John E. Fitzgerald, Village President, Village of Manhattan, Village Hall, 245 State Street, Manhattan, Illinois 60442.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	(V) McHenry Shores, McHenry County	Fox River	Within corporate limits	*740
Maps available for inspection at the McHenry Shores Village Hall, 3215 West Beach Drive, McHenry, Illinois.				
Send comments to Honorable Richard Panerali, Village President, Village of McHenry Shores, McHenry Shores Village Hall, 3215 West Beach Drive, McHenry, Illinois 60050.				
Illinois	(V) Romeoville Will County	Des Plaines River	About 1,800 feet downstream of Romeo Road	*585
			About 1.2 miles upstream of Romeo Road	*588
Maps available for inspection at the Village Hall, 13 Montrose Drive, Romeoville, Illinois.				
Send comments to Honorable Howard Trippett, Village President, Village of Romeoville, Village Hall, 13 Montrose Drive, Romeoville, Illinois 60441.				
Indiana	(T) Griffith, Lake County	Little Calumet River	Within corporate limits	*598
		Cady Marsh Ditch	Just upstream of Cline Avenue	*614
			Just downstream of Colfax Street	*615
		Seberger Ditch	Within corporate limits	*629
		Turkey Creek	Within corporate limits	*631
Maps available for inspection at the Town Hall, 111 North Broad Street, Griffith, Indiana.				
Send comments to Honorable Carl Konotasek, Town Board President, Town of Griffith, Town Hall, 111 North Broad Street, Griffith, Indiana 46319.				
Indiana	(Uninc.) Hancock County	Little Sugar Creek	About 2,500 feet downstream of County Road 600 South.	*800
			Just upstream of County Road 600 South	*807
			Just upstream of U.S. Route 52	*822
			Just downstream of County Road 200 South	*847
		Sugar Creek	Just upstream of County Road 600	*794
			About 200 feet upstream of County Road 300 South	*812
			Just upstream of U.S. Route 40	*827
			Just upstream of State Route 13	*856
			Just downstream of State Route 234	*871
		Six Mile Creek	Mouth at Big Blue River	*844
			About 400 feet upstream of County Road 800 east	*846
			Just downstream of County Road 1,000 west (upstream crossing).	*880
		Buck Creek	Just upstream of County Line Road	*826
			Just downstream of Conrail	*827
			Just upstream of Conrail	*834
			Just upstream of State Route 234	*858
		Big Blue River	About 1.1 miles downstream of County Road 575 East	*831
			Just downstream of County Road 1,000 West	*851
		Brier Creek	Just upstream of County Line Road	*827
			About 2,300 feet upstream of County Road 700 West	*846
		Doe Creek	Just upstream of County Line Road	*806
			Just upstream of County Road 700 West	*834
			About 2,250 feet upstream of County Road 200 South	*844
Maps available for inspection at the Hancock County Courthouse, Surveysor's Office, Greenfield, Indiana.				
Send comments to Honorable Nobel Snodgrass, Chairman of the Hancock County Commissioners, Hancock County, Hancock County Courthouse, Surveyor's Office, Greenfield, Indiana 46140.				
Indiana	(T) Highland, Lake County	Little Calumet River	Just upstream of Cline Avenue	*598
			At upstream corporate limits	*599
		Cady Marsh Ditch	At confluence of Spring Street Ditch	*607
			Just downstream of Cline Avenue	*614
		Hart Ditch	At mouth at Little Calumet River	*599
			At confluence of Cady Marsh Ditch	*607
		Spring Street Ditch	About 200 feet upstream of mouth at Cady Marsh Ditch.	*612
			Just downstream of Hart Road	*614
			Just downstream of Main Street	*622
Maps available for inspection at the Town Hall, 3333 Ridge Road, Highland, Indiana.				
Send comments to Honorable John Oakley, Town Board President, Town of Highland,Town Hall, 3333 Ridge Road, Highland, Indiana 46322.				
Indiana	(T) Rome City, Noble County	Branch Creek	At western extraterritorial limits	*893
			At confluence of Little Lake	*895
		Little Lake	Shoreline	*895
		Sylvan Lake	Shoreline	*918
Maps available for inspection at the Town Hall, 123 Kerr Avenue, Rome City, Indiana.				
Send comments to Honorable Howard C. Cantwell, Town Board President, Town of Rome City, Town Hall, P.O. Box 338, 123 Kerr Avenue, Rome City, Indiana 46784.				
Indiana	(C) Rushville Rush County	Flatrock River	At downstream corporate limits	*950
			Just upstream of Main Street	*955
			Just upstream of Chessie System	*957
			About 0.39 mile upstream of Chessie System	*958
		Hodges Branch	Just upstream of 9th Street	*967
			Just downstream of Main Street	*972
Maps available for inspection at the City Building, Rushville, Indiana.				
Send comments to Honorable Raymond M. Gibson, Mayor, City of Rushville, City Building, Rushville, Indiana 46173.				
Indiana	(Uninc.) Shelby County	Little Sugar Creek	Mouth at Sugar Creek	*783
			Just downstream of County Road 1200 North	*805
			About 4,300 feet upstream of County Road 300 West	*81,3
		Snail Creek	Mouth at Sugar Creek	*738
			Just upstream of County Road 400 North	*763
			Just upstream of County Road 400 West	*784
			About 3,600 feet upstream of confluence of Sexton Ditch.	*790
		Snodgrass Ditch	Mouth at Snail Creek	*790

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 1,500 feet up stream of confluence of Duckworth Ditch.	*799
		Dry Fork	Mouth at Snail Creek	*743
			Just downstream of Conrail	*775
			Just upstream of Conrail	*781
			Just downstream of Frontage Road	*789
			About 0.19 mile upstream of County Road 800 North	*791
		Sugar Creek	About 1.9 miles downstream of Mill Dam	*734
			Just upstream of Interstate 74	*770
			Just downstream of County Road 1200 North	*784
		Brandywine Creek	About 0.3 mile downstream of County Road 300 North	*761
			Just upstream of Interstate 74	*775
			Just upstream of County Road 750 North	*803
			About 0.4 mile upstream of Chessie System	*831
		Big Blue River	About 1.0 mile upstream of State Route 44	*729
			About 1.0 mile upstream of Morristown Road	*779
			About 0.7 mile downstream of Freeport Dam	*814
			About 530 feet upstream of county boundary	*832
		Little Blue River	About 1.4 miles downstream of Interstate 74	*765
			Just downstream of Interstate 74	*775

Maps available for inspection at the Planning Commission Office, Shelby County Courthouse, Shelbyville, Indiana.

Send comments to Honorable Marvin Larrison, Chairman of the County Commission, Shelby County, Shelby County Courthouse, Shelbyville, Indiana 46176.

Iowa	(C) Neola, Pottawattami County	Mosquito Creek	Just upstream of confluence with Neola Creek	*1,088
			About 100 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*1,095
			About 1,300 feet upstream of Front Street	*1,097
		Neola Creek	About 100 feet downstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*1,092
			About 1,400 feet upstream of Pearl Street	*1,100

Maps available for inspection at the City Hall, Neola, Iowa.

Send comments to Honorable John Schnitker, Mayor, City of Neola, P.O. Box 236, Neola, Iowa 51559.

Maryland	Highland Beach, town, Anne Arundel County	Chesapeake Bay	Entire shoreline within community	*10

Maps available for inspection by contacting Mayor Johnson at (202) 783-3888.

Send comments to Honorable Nan Johnson, Mayor of Highland Beach, P.O. Box 3161, Annapolis, Maryland 21403.

Maryland	Millington, town, Kent and Queen Annes County	Chester River	Downstream Corporate Limits	*13
			Upstream Corporate Limits	*14

Maps available for inspection at the Town Hall, Millington, Maryland.

Send comments to Honorable T. Edward Robinson, Mayor of Millington, P.O. Box 222, Millington, Maryland 21651.

Massachusetts	Northbridge, town, Worcester County	Blackstone River	Downstream corporate limits	*241
			Upstream of Church Street	*255
			Upstream corporate limits	*276
		Mumford River	Downstream corporate limits	*259
			Upstream of footbridge	*273
			Downstream of dam	*312
		Whittins Pond	Entire shoreline within community	*313

Map available for inspection at the Town Clerks' Office, Memorial Town Hall, Whitinsville, Massachusetts.

Send comments to the Honorable J. Alfred Benoit, Chairman of the Town of Northbridge Board of Selectmen, Northbridge Memorial Town Hall, Whitinsville, Massachusetts 01588.

Michigan	(Twp.) Albion, Calhoun County	South branch, Kalamazoo River	About 2.1 miles downstream of D Drive South	*946
			Just downstream of H Drive South	*955
			Just downstream of L Drive South	*962
		East branch, Kalamazoo River	About 3,800 feet downstream of 29½ Mile Road	*943
			About 3,900 feet upstream of 29½ Mile Road	*948
		Unnamed creek	About 2,800 feet downstream of 29½ Mile Road	*948
			Just upstream of 29½ Mile Road	*954
			About 2,650 feet upsteam of 29½ Mile Road	*958

Maps available for inspection at the Town Hall, Albion, Michigan.

Send comments to Honorale Thomas Frank, Supervisor, Township of Albion, 24531 B Drive, South, Albion, Michigan 49224.

Michigan	(Twp.) Ash, Monroe County	Swan Creek	At Labo Road	*590
			Just upstream of Telegraph Road	*598
			At Carleton-Rockwood Road	*602
			Just upstream of Interstate 275	*606
			Just downstream of Grafton Road	*608
		North branch, Swan Creek	Mouth at Swan Creek	*605
			Just downstream of Interstate 275	*607
			At Will Carleton Drive	*612

Maps available for inspection at the Town Hall, 1677 Ready Road, Carleton, Michigan.

Send comments to Honorable Wayne Smith, Supervisor, Township of Ash, Town Hall, 1677 Ready Road, Carleton, Michigan 48117.

Michigan	(Twp.) Berlin, Monroe County	Huron River	Mouth at Lake Erie	*578
			About 3.5 miles downstream of Telegraph Road	*587
			Just upstream of T elegraph Road	*596
		Lake Erie	Shoreline	*578
		Swan Creek	Mouth at Lake Erie	*578
			Just downstream of Drew Road	*584
			Just upstream of Brandon Road	*586
			About 400 feet upstream of Interstate 75 southbound	*588

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mouillee Creek	Mouth at Lake Erie	*578
			Just upstream of Hagerman Road	*579
		Laudenschlager drain	About 3,300 feet downstream of Hagerman Road	*578
			Just downstream of Detroit and Toledo Shoreline Railroad.	*583
			Just upstream of Conrail	*586
			About 700 feet upstream of Ready Road	*586

Maps available for inspection at the Town Hall, 5651 Trombley Road, Newport, Michigan.
Send comments to Honorable Darryl E. Smith, Supervisor, Township of Berlin, Town Hall, 5651 Trombley Road, Newport, Michigan 48166.

Michigan	(C) Eaton Rapids, Eaton County	Grand River	About 1.0 mile downstream of confluence of Grand River bypass.	*866
			Just downstream of State Street Dam	*870
			About 1,300 feet upstream of State Street Dam	*873
			At downstream southern corporate limit	*875
		Grand River bypass	Just upstream of Knight Street	*870
			Just upstream of Main Street	*872
		Spring Brook	About 1,500 feet upstream of footbridge	*871
			About 2,600 feet upstream of footbridge	*872
		Shallow flooding (overflow from Grand River and Grand River bypass).	Intersection of Main Street and Hamlin Street	#2

Maps available for inspection at the City Hall, 206 South Main Street, Eaton Rapids, Michigan.
Send comments to Honorable Victor Huddleston, Mayor, City of Eaton Rapids, City Hall, 206 South Main Street, Eaton Rapids, Michigan 48827.

Michigan	(Twp.) Kochville, Saginaw County	Kochville drain	About 2.5 miles above mouth of Saginaw River	*585
			At confluence of north branch, Kochville drain	*587
		South branch, Kochville drain	Just upstream of Michigan Road	*588
			Just downstream of State Highway 84	*599
		North branch, Kochville drain	Just upsteam of Davis Road	*589
			Just downstream of State Highway 84	*596

Maps available for inspection at Mr. Trautner's Home, 4510 Pierce Road, Saginaw, Michigan.
Send coments to Honorable Albert Trautner, Supervisor, Township of Kochville, 6150 Bay Road, Saginaw, Michigan 48604.

Michigan	(C) Mason, Ingham County	Sycamore Creek	About 1,200 feet downstream of Howell Road	*874
			Just upstream of Cemetery Drive	*879
			Just upstream of Maple Street	*888
			Just downstream of Kipp Road	*894
		Rayner Creek	At confluence with Sycamore Creek	*876
			Just upstream of Rogers Street	*880
			Just upstream of Columbia/Matthews Street	*884
			About 1,300 feet upstream of Matthews Street	*884
		Willow Creek	At confluence with Sycamore Creek	*891
			About 3,000 feet upstream of U.S. Highway 127	*893

Maps available for inspection at the City Hall, 201 West Ash Street, Mason, Michigan.
Send comments to Honorable Dewayne Evans, Mayor, City of Mason, City Hall, 201 West Ash Street, Mason, Michigan 48854.

Michigan	(Twp.) Pennfield, Calhoun County	Battle Creek River	About 850 feet upstream of Verona Dam	*830
			Just upstream of McAllister Road	*833

Maps available for inspection at the Town Hall, 20260 Capital Avenue, N.E., Battle Creek, Michigan.
Send comments to Honorable Russell E. Coutter, Supervisor, Township of Pennfield, Town Hall, 20260 Capital Avenue, N.E., Battle Creek, Michigan 49107.

Michigan	(Twp.) Summit, Jackson County	McCain drain	About 1,800 feet downstream of State Highway 60	*956
			About 2,300 feet upstream of Spring Arbor Road	*963
		Grand River	About 2,100 feet upstream of Losey Avenue	*935
			About 4,600 feet downstream fo Stonewall Road	*945
			Just downstream of Stonewall Road	*945
			About 4,600 feet upstream of Glenshire Drive	*948
		Peterson Lake Drain	Mouth at Grand River	*947
			Just upstream of Badgley Road	*950
			About 2,395 feet upstream of Horton Road	*952
			Just upstream of abandoned railroad bridge	*968
			About 1,600 feet upstream of Voorman Road	*970
		Finton Lake	Shoreline	*960
		Vandercook Lake	Shoreline	*949
		Brown Lake	Shoreline	*948

Maps available for inspection at the Town Hall, 2121 Ferguson Road, Jackson, Michigan.
Send comments to Honorable Herman Gumper, Supervisor, Township of Summit, Town Hall, 2121 Ferguson Road, Jackson, Michigan 49203.

Minnesota	(C) Little Canada, Ramsey County	Gervais Lake	Shoreline	*862
		Round Lake	Shoreline	*905
		Savage Lake	Shoreline	*897
		Twin Lake	Shoreline	*872

Maps available for inspection at the City Hall, 515 Little Canada Road, Little Canada, Minnesota.
Send comments to Honorable Raymond Hanson, Mayor, City of Little Canada, City Hall, 515 Little Canada, Minnesota 55117.

Missouri	(C) Marthasville; Warren County	Tuque Creek tributary	Just downstream of the Missouri, Kansas, Texas Railroad.	*495
			About 1,050 feet upstream of No. 4 Street	*496

Maps available for inspection at the City Hall, P.O. Box 21, Marthasville, Missouri.
Send comments to Honorable Franklin Rombach, Mayor, City of Marthasville, City Hall, P.O. Box 21, Marthasville, Missouri 63357

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(C) Washington, Franklin County	Busch Creek	At confluence with Dubois Creek	*486
			Just upstream of abandoned bridge	*492
			Just downstream of Madison Avenue	*496
			Just upstream of Madison Avenue	*503
			Just downstream of Locust Street	*510
			About 120 feet upstream of Jefferson Street	*515
			Just downstream of private road	*523
			Just upstream of private road	*531
			About 300 feet downstream of State Highway 100	*535
			Just upstream of State Highway 100	*547
		Southwest branch, Busch Creek	Mouth at Busch Creek	*486
			Just upstream of State Highway 100	*488
			About 1.58 miles upstream of State Highway 100	*507
		South branch, Busch Creek	Mouth at Busch Creek	*486
			At upstream corporate limits	*489
		St. Johns Creek	At Missouri Pacific Railroad	*494
			At upstream corporate limits	*494
		Missouri River	At downstream corporate limits	*486
			About 1.5 miles upstream of confluence of Saint Johns Creek.	*494
		Dubois Creek	At downstream corporate limits	*486
			At confluence of Busch Creek	*486
	Maps available for inspection at the City Hall, 4th and Jefferson Streets, Washington, Missouri.			
	Send comments to Honorable James Renick, Mayor, City of Washington, 4th and Jefferson Streets, Washington, Missouri 63090.			
Nebraska	(C) Ashland, Saunders County	Salt Creek	Just upstream of U.S. Highway 6	*1,063
			About 200 feet upstream of the Burlington Northern Railroad (upstream of 13th Street).	*1,083
			At County Road 110	*1,085
		Wahoo Creek	At mouth	*1,068
			About 400 feet upstream of the Burlington Northern Railroad near the northwest extraterritorial limit.	*1,078
		Clear Creek	Within extraterritorial limit	*1,071
		Silver Creek	Within extraterritorial limit	*1,071
	Maps available for inspection at the City Hall, 1748 Silver Street, Ashland, Nebraska.			
	Send comments to Honorable Max O. Barnes, Mayor, City of Ashland, City Hall, 1748 Silver Street, Ashland, Nebraska 68003.			
Nebraska	(V) DeWitt, Saline County	Big Blue River	About 5,000 feet downstream of Chicago, Rock Island and Pacific Railroad.	*1,286
			Just upstream of Chicago, Rock Island and Pacific Railroad.	*1,292
			About 15,700 feet upstream of Fillmore Avenue	*1,296
		Turkey Creek	About 4,200 feet downstream of Chicago, Rock Island and Pacific Railroad.	*1,288
			About 3,500 feet upstream of Burlington Northern Railroad.	*1,299
		Big Blue River overflow	At Chicago, Rock Island and Pacific Railroad	*1,290
			At Burlington Northern Railroad	*1,292
	Maps available for inspection at the City Hall, 406 East Fillmore, DeWitt, Nebraska.			
	Send comments to Honorable Allison D. Peterson, Chairperson of the Board of Trustees, Village of DeWitt, City Hall, 406 East Fillmore, DeWitt, Nebraska 68341.			
Nebraska	(C) Wilber, Saline County	Big Blue River	About 3.3 miles downstream of State Highway 41	*1,310
			About 3.1 miles upstream of State Highway 41	*1,322
		Middle unnamed tributary of Big Blue River.	At mouth at Big Blue River	*1,312
			Just upstream of OK Street	*1,320
			About 0.75 mile upstream of Franklin Street	*1,366
		North unnamed tributary of Big Blue River.	At mouth at Big Blue River	*1,321
			Just upstream of State Highway 103	*1,325
			About 1.5 miles upstream of mouth (just upstream of county road).	*1,355
	Maps available for inspection at the City Hall, 101 West Third Street, Wilber, Nebraska.			
	Send comments to Honorable Harold Schwabauer, Mayor, City of Wilber, City Hall, 101 West Third Street, Wilber, Nebraska 68465.			
Nebraska	(V) Yutan, Saunders County	Clear Creek	About 400 feet downstream of county road (at southern extraterritorial limit).	*1,141
			Just downstream of State Highway 92	*1,146
			Just upsteam of State Highway 792	*1,152
			Just upstream of Union Pacific Railroad	*1,163
			Just downstream of county road (at western extraterritorial limit).	*1,180
		Upper Clear Creek	At mouth	*1,143
			Just upstream of Burlington Northern Railroad	*1,148
			JUst downstream of county road (at northern extraterritorial limit).	*1,173
	Maps available for inspection at the City Hall, Yutan, Nebraska.			
	Send comments to Honorable Steve Hayes, Mayor, Village of Yutan, City Hall, Yutan, Nebraska 68073.			
New Jersey	Mantua, Township, Gloucester County	Mantua Creek	Downstream Corporate Limits	*10
			Upstream Corporate Limits	*11
	Maps available for inspection at the Municipal Building, Main Street, Mantua, New Jersey.			
	Send comments to Honorable Roy J. Hodgens, Mayor of Mantua, Municipal Building, Main Street, Mantua, New Jersey 08051.			

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Bellport, Village, Suffolk County	Great South Bay	Mott Drive extended to Brookside Avenue extended	*5
			Brookside Avenue extended to southwest corporate limits.	*6

Maps available for inspection at the Village Office, 144 South Country Road, Bellport, New York.

Send comments to Honorable Robert Wallen, Mayor of Bellport, P.O. Box 3, Bellport, New York 11713.

New York	Canajoharie, Town, Montgomery County	Mohawk River	At downstream Corporate Limits	*298
			At upstream Corporate Limits	*304
			Ponding area near upstream Corporate Limits between New York State Thruway and Conrail.	*304

Maps available for inspection at the Town Office, Church Street, Canajoharie, New York.

Send comments to Honorable Charles Convoy, Supervisor of the Town of Canajoharie, Town Office, Church Street, Canajoharie, New York 13317.

New York	Canajoharie, Village, Montgomery County	Mohawk River	Downstream Corporate Limits	*300
			Upstream Corporate Limits	*302

Maps available for inspection at the Municipal Building, Erie Boulevard, Canajoharie, New York.

Send comments to Honorable Mary Plank, Mayor of the Village of Canajoharie, Municipal Building, Erie Boulevard, Canajoharie, New York 13317.

New York	Constantia, Town, Oswego County	Oneida Lake	Entire shoreline	*373
		Panther Lake	Entire shoreline	*601
		Frederick Creek	Confluence with Scriba Creek	*373
			Upstream of Tannery Road Dam	*415
			Upstream of Knapp Road	*435
			Approximately 3,400' upstream of Kibbie Lake Road	*477
		Scriba Lake	Confluence with Oneida Lake	*373
			Upstream of County Road No. 23 (downstream crossing).	*401
			Upstream of Parker Road	*448
			Upstream of Holley Hole Road	*505
			Upstream Corporate Limits	*548
		Dakins Creek	Confluence with Oneida Lake	*373
			Approximatley 300' upstream of Johnson	*414

Maps available for inspection at the Town Hall, Frederick Street, Constantia, New York.

Send comments to Honorable Francis Cooper, Supervisor of Constantia, Box 167, Constantia, New York 13044.

New York	Fonda, Village, Montgomery County	Mohawk River	Downstream Corporate Limits (extended)	*286
			Upstream State Route 30A	*288
			Upstream Corporate Limits (extended)	*291
		Cayadutta Creek	Confluence with Mohawk River	*291
			Upstream Corporate Limits	*299

Maps available for inspection at the Village Office, Main Street, Fonda, New York.

Send comments to Honorable Stephen D. Compani, Mayor of Fonda, Village Office, Main Street, Fonda, New York 12068.

New York	Fort Plain, Village, Montgomery County	Mohawk River	Downstream Corporate Limits	*304
			Upstream Corporate Limits	*307
		Otsquago Creek	Confluence with Mohawk River	*305
			Upstream of South Street bridge	*322
			Upstream Corporate Limits	*352

Maps available for inspection at the Village Hall, 168 Canal Street, Fort Plain, New York.

Send comments to Honorable Richard Jacksland, Mayor of Fort Plain, Village Hall, 168 Canal Street, Fort Plain, New York 13339.

New York	Fultonville, Village, Montgomery County	Mohawk River	Downstream Corporate Limits (extended)	*287
			Upstream Corporate Limits (extended)	*291

Maps available for inspection at the Village Hall, Fultonville, New York.

Send comments to Honorable E. S. Yates, Mayor of Fultonville, Village Office, Fultonville, New York 12072

New York	Hewlett Bay Park, Village, Nassau County	Macy Channel	Entire shoreline	*8

Maps available for inspection at the Village Hall, 30 Piermont Avenue, Hewlett, New York.

Send comments to Honorable Ellyn Brownsther, Mayor of Hewlett Bay Park, Village Hall, 30 Piermont Avenue, Hewlett, New York 11557

New York	Hewlett Neck, Village, Nassau County	Brosewere Bay	Entire shoreline within community including the shoreline of Georges Creek within the community.	*8

Maps available for inspection at the Village Hall, 30 Piermont Avenue, Hewlett, New York.

Send comments to Honorable Sheldon Shane, Mayor of Hewlett Neck, Village Hall, 30 Piermont Avenue, Hewlett, New York 11557.

New York	Nelliston, Village, Montgomery County	Mohawk River	Downstream Corporate Limits (extended)	*303
			Upstream Corporate Limits (extended)	*307

Maps available for inspection at the Village Hall, River Street, Nelliston, New York.

Send comments to Honorable Harvey W. Gramps, Mayor of Nelliston, River Street, Nelliston, New York 13410.

New York	Patchoque, Village, Suffolk County	Great South Bay	Entire shoreline within community	*6
			West Main Street to Crescent Street extended along southwestern corporate limits.	*5
			Crescent Street extended to Strand Drive extended along southwestern corporate limits.	*6

Maps available for inspection at the Municipal Building, 14 Baker Street, Patchoque, New York.

Send comments to Honorable Norman F. Lechtrecker, Mayor of Patchoque, Municipal Building, 14 Baker street, Patchoque, New York 11772.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
New York	Rockville Centre, Village, Nassau County	Mill River	entire shoreline within community	*7
Maps available for inspection at the Village Hall, One College Place, Rockville Centre, New York.				
Send comments to Honorable Leonard Sandel, Mayor of Rockville Centre, P.O. Box 950, Rockville Centre, New York 11571.				
New York	Valley Stream, Village, Nassau County	Valley Stream	Downstream Corporate Limits	*11
			Valley Stream Boulevard (upstream side)	*16
			Footbridge and Weir (upstream side)	*19
			Hendrickson Avenue (upstream side)	*21
		Motts Creek	Downstream Corporate Limits	*11
			Rockaway Avenue (upstream side)	*12
			Argyle Street (upstream side)	*24
			Franklin Avenue (upstream side)	*30
Maps available for inspection at the Village Hall, 123 South Central Avenue, Valley Stream, New York.				
Send comments to Honorable Francis Furey, Mayor of Valley Stream, Village Hall, 123 South Central Avenue, Valley Stream, New York 11580.				
New York	Woodburgh, Village, Nassau County	Brosewere Bay	Entire coastline within community	*8
		Woodmere Channel	Entire shoreline within community	*8
Maps available for inspection at the Village Hall, 30 Piermont Avenue, Hewlett, New York.				
Send comments to Honorable Jesse Halperin, Mayor of Woodsburgh, Village Hall, 30 Piermont Avenue, Hewlett, New York 11557.				
Ohio	(V) Empire, Jefferson County	Ohio River	Just downstream of confluence of Jeremy Run	*678
			At upstream corporate limits	*679
Maps available for inspection at the Mayor's Office, Town Hall, Empire, Ohio.				
Send comments to Honorable Wendell B. Reese, Mayor, Village of Empire, Town Hall, Empire, Ohio 43926.				
Ohio	(C) North Canton, Stark County	West Branch Nimishillen Creek	About 1,900 feet downstream of South Main Street	*1,065
			Just upstream of South Main Street	*1,074
			Just upstream of Dam	*1,085
			About 1,400 feet upstream of East Maple Street	*1,090
		Chatham Ditch	About 1,150 feet downstream of Marquardt Avenue	*1,090
			Just upstream of Marquardt Avenue	*1,100
			About 900 feet upstream of Marquardt Avenue	*1,101
		McDowell Ditch	About 2,050 feet downstream of Everhard Avenue	*1,056
			About 150 feet upstream of Everhard Avenue	*1,059
		Zimber Ditch	About 2,700 feet downstream of Glenwood Street Southwest.	*1,062
			About 2,400 feet upstream of Glenwood Street Southwest.	*1,064
Maps available for inspection at the Engineer's Office, City Hall, 145 North Main Street, North Canton, Ohio.				
Send comments to Honorable Dennis Grady, Mayor, City of North Canton, City Hall 145 North Main Street, North Canton, Ohio 44720.				
Ohio	(V) Stratton, Jefferson County	Ohio River	At downstream corporate limit	*679
			At upstream corporate limit	*680
Maps available for inspection at the Mayor's Office, Town Hall, Third Street, Stratton, Ohio.				
Send comments to Honorable Frederick Aballa, Mayor, Village of Stratton, Town Hall, P.O. Box 171, Third Street, Stratton, Ohio 43961.				
Ohio	(V) Tiltonsville, Jefferson County	Ohio River	At downstream corporate limits	*663
			At upstream corporate limits	*663
Maps available for inspection at the Mayor's Office, Town Hall, Grandview and Market Streets, Tiltonsville, Ohio.				
Send comments to Honorable Grant N. Helms, Mayor, Village of Tiltonsville, Town Hall, Grandview and Market Streets, Tiltonsville, Ohio 43963.				
Ohio	(V) Yorkville, Belmont and Jefferson Counties	Ohio River	Just downstream of confluence of Patton Run	*662
			About 0.8 mile upstream of Pike Island Lock and Dam	*663
		Deep Run	At mouth	*662
			Just downstream of State Route 7	*662
Maps available for inspection at the President's Office, Town Hall, 324 Market Street, Yorkville, Ohio.				
Send comments to Honorable Phil A. Piciaccha, Jr., President of the Village Council, Village of Yorkville, Town Hall, 324 Market Street, Yorkville, Ohio 43971.				
Commonwealth of Puerto Rico.	Rio Grande, Anasco River Basin	Rio Grande de Anasco	10 meters downstream of intersection of river and Puerto Rico Highway 2.	*5.1
			30 meters upstream of intersection of river and Puerto Rico Highway 406.	*16.0
		Atlantic Ocean	At mouth of Rio Grande de Anasco	*1.6
Maps available for inspection at the Puerto Rico Planning Board, P.O. Box 41119, Minillas Station, Santurce, Puerto Rico.				
Send comments to Honorable Carlos Romero Barcelo, LaFortaleza, San Juan, Puerto Rico 00902.				

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Utah	Utah County (Unincorporated Areas)	Utah Lake	Intersection of 7300 North and 8000 West	*4,495
			Approximately 1,000 feet west of the intersection of Geneva Road and 5200 North.	*4,495
			Intersection of 4800 West and 5400 South	*4,495
			Intersection of Interstate Highway 15 and 2400 South	*4,495
		Dry Creek	Eastern side of 8000 West over the channel	*4,622
			State Highway 80 over the channel	*4,770
		American Fork River	4800 West over the channel	*4,901
		Hobble Creek	Upstream side of Mapleton Drive over the channel	*4,816
		Jordan River	Approximately 1,000 feet east of the intersection of Cedar Fort Road and 10400 West.	*4,494
		Provo River	Downstream side of State Highway 78 over the channel.	*4,692
	Maps available for inspection at Office of the County Engineer, County Building, 115 S. University Ave., Room 112, Provo, Utah.			
	Send comments to the Honorable Kenneth J. Pinegar, County Building, 115 S. University Avenue, Room 309, Provo, Utah 84601.			
Virgina	Tangier, Town, Accomack County	Chesapeake Bay	Entire shoreline within community	*6
		Tangier North Channel	Entire shoreline within community	*6
		Tangier Sound	Entire shoreline within community	*6
	Maps available for inspection at the Municipal Building, Tangier, Virginia.			
	Send comments to the Honorable Robert Thorne, Mayor of Tangier, Municipal Building, Tangier, Virginia 23440.			
Washington	Cosmopolis (City)	Grays Harbor	Intersection of Broadway Street (U.S. 101) and J Street.	*10
	Grays Harbor County	Mill Creek	30 feet upstream of C Street	*21
	Maps available for inspection at City Hall, 100 E. 1st., Cosmopolis, Washington.			
	Send comments to the Honorable Jerry Raines, P.O. Box G, Cosmopolis, Washington 98537.			
Washington	Waitsburg (City), Walla Walla County	Touchet River	Intersection of First Street and Jay Street	*1,247
			Intersection of Woods Street and U.S. Highway 12	*1,274
		Coppei Creek	Intersection of Arnold Street and Seventh Street	*1,243
			Intersection of Main Street and Sixth Street	#1
	Maps available for inspection at City Hall, Waitsburg, Washington.			
	Send comments to the Honorable Virgil Carpenter, P.O. Box 35, Waitsburg, Washington 99361.			
Wisconsin	(C) Chilton, Calumet County	South Branch Manitowoc River	About 0.32 mile downstream of East Main Street	*842
			Just downstream of Dam (about 0.02 mile downstream of State Street).	*880
			Just upstream of State Street	*887
			About 1.11 miles upstream of State Street	*890
	Maps available for inspection at the Office of the City Clerk, City Hall, 42 School Street, Chilton, Wisconsin.			
	Send comments to the Honorable Alpheus W. Larson, Mayor, City of Chilton, City Hall, 42 School Street, Chilton, Wisconsin 53014.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: January 26, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-3785 Filed 2-12-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket PS-66; Notice 2]

Transportation of Natural and Other Gas by Pipeline Transportation of Hazardous Liquids by Pipeline; Placing Longitudinal Weld Seams in Upper Half of Pipe

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Withdrawal of Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: An ANPRM sought information concerning the need for a new safety standard that would require placement of the longitudinal weld seams in the upper half of newly constructed pipelines as a means to reduce the number of accidents caused by internal corrosion.

The comments to the ANPRM, recommendations by members of advisory committees for gas and liquid pipelines, and a review of accident reports submitted to MTB indicate that the location of the weld seam is not expected to be a factor in corrosion caused accidents that might occur on newly constructed pipelines. Consequently, the ANPRM is withdrawn.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, 202–426–2392.

SUPPLEMENTARY INFORMATION: The MTB issued an ANPRM (45 FR 20142, March 27, 1980) seeking information concerning a recommendation (72–P–9) by the National Transportation Safety Board (NTSB) to locate the longitudinal weld seam in the upper half of the pipe during pipeline construction to avoid the potential for internal corrosion occurring at the weld seam or heat affected zone. According to the NTSB, internal corrosion on the bottom of the pipe will weaken an insufficiently bonded longitudinal seam when it also is located on the bottom of the pipe and the pipe will fail at such locations. This condition prevails in pipelines transporting gas or hazardous liquids according to NTSB

The ANPRM sought information necessary to define the safety problem addressed by the recommendation, to evaluate the effectiveness of the recommendation, and to weigh the technical and economic practicability of the recommendation. In addition to publishing the ANPRM, the MTB brought the recommendation before the Technical Pipeline Safety Standards Committee (TPSSC) for gas pipelines on December 9, 1980, and the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) on December 17, 1981, in order to gain the views of committee members as well as views of the public.

Other than the NTSB, the 40 commenters responding to the ANPRM did not support adoption of a new safety standard to place the longitudinal seam in the uper half of the pipe for gas transmission or distribution pipelines or for hazardous liquid pipelines. These commenters argued that industry experience indicates that failures are seldom if at all caused by internal corrosion in the longitudinal seam or heat affected zone. While not agreeing with NTSB that corrosion in the longitudinal weld seam or heat affected zone is a potential problem, these commenters argued that current welding technology together with precise quality control of the weld and improved control of pipe metal chemistry prevents the occurrence of weld seams which are insufficiently bonded.

During the TPSSC meeting on December 9, 1980, the NTSB reiterated its position in favor of adopting the rule. The committee members, however, expressed the view that (1) the weld seam or heat affected zone is not more subject to internal corrosion than the body of the pipe, and (2) experience of the committee members with liquid and gas pipelines does not indicate that internal corrosion in the weld seam or heat affected zone is a serious safety problem. The TPSSC suggested that accident reports submitted to MTB be examined to determine whether a serious safety problem is indicated by the data.

The MTB accident records were surveyed to determine the incidence of accidents that might be attributable to internal corrosion in the longitudinal weld seam or heat affected zone. None of the 3,144 liquid pipeline accidents reported to date involved internal corrosion in the longitudinal seam other than the Phillips Pipe Line Company December 9, 1970, accident noted in the ANPRM.

Only six accidents reporting internal corrosion in the longitudinal seam were found in the 12,782 gas transmission and distribution pipeline accidents to date. All six of these accidents were on the same transmission pipeline within a few miles of each other which indicates a local problem rather than a problem throughout the industry. Further, four of these six accidents occurred during hydrostatic test and thus were not failures in the ordinary sense. Additionally, the accident data did not include the location of the longitudinal seam and, therefore, placement of the longitudinal seam cannot be correlated with those remaining two failures which might indicate the existence of a safety problem.

The majority of the members of the THLPSSC, after reviewing the ANPRM, the comments submitted in response to the ANPRM, and the MTB accident records, favored withdrawing the ANPRM for lack of information indicating the existence of a serious safety problem.

In view of the negative comments in response to the ANPRM, the lack of support for the proposal by the TPSSC and the THLPSSC, and the lack of statistical data in the accident reports indicating the existence of a serious safety problem, the MTB does not believe that the placement of the longitudinal weld seam poses a serious safety problem. While the Phillips accident and the six accidents in gas pipelines involved corrosion in the weld seam, the MTB believes that (1) these were isolated cases and do not represent a general, widespread condition, and (2) the type of weld defect that might have caused these failures is unlikely to recur on newly constructed pipelines due to the application of modern manufacturing techniques. Therefore, the MTB hereby withdraws the ANPRM concerning placement of the longitudinal weld seam in the upper half of pipe, as published at 45 FR 20142, March 27, 1980.

(49 U.S.C. 1672; U.S.C. 2001; 49 CFR 1.53(a), Appendix A of Part 1 and Appendix A of Part 106)

Issued in Washington, D.C., on February 8, 1982.

Melvin A. Judah

Acting Associate Director for Pipeline Safety Regulation Materials Transportation Bureau.

[FR Doc. 82-3871 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Review of the Status; U.S. Breeding Population of the Wood Stork

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of status review.

SUMMARY: The Service is reviewing the status of the U.S. breeding population of the wood stork (*Mycteria americana*) to

determine if this population of this species should be proposed as an endangered or threatened species. This review is being undertaken because of indications that the U.S. breeding population of wood storks has been decreasing and adverse modification of their habitat is occurring. The U.S. wood storks nest primarily in Florida, but post-breeding dispersal carries them throughout much of the Southeast. The Service welcomes additional data on the status of this bird and its habitat. The Service is also requesting information on environmental and economic impacts and effects on small entities that would result from proposing the wood stork as an endangered or threatened species and information on possible alternatives.

DATE: Information regarding the status of the U.S. wood stork population should be submitted on or before April 19, 1982.

ADDRESS: Comments and data should be sent to the Area Manager, U.S. Fish and Wildlife Service, Department of Interior, 15 North Laura Street, Jacksonville, Florida 32202. Comments and materials relative to this notice are available for public inspection during normal business hours at the Service's Area Office at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Hankla, Area Manager, Jacksonville Area Office, (904/791–2267 or FTS 946–2267).

SUPPLEMENTARY INFORMATION:

Background

The Service is publishing a notice of review in order to solicit biological information on the U.S. breeding population of the wood stork (*Mycteria americana*). The Service is also seeking to gather the following information from Federal agencies, State and local governments, the scientific community, and the public: Federal funding, grants, and permits; other economic; or other relevant information for the areas that may be affected by the listing or designation of critical habitat for this species. This notice however, does not bring the wood stork under the protection of the Endangered Species Act nor does it commit the Service to subsequently proposing it for listing.

Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, and 50 CFR 424.11 state that a species may be endangred or threatened because of any of the following factors:

1. The present or threatened destruction, modification, or curtailment of its habitat or range;

2. Overutilization for commercial, sporting, scientific, or educational purposes;

3. Disease or predation;

4. The inadequacy of existing regulatory mechanisms; or

5. Other natural or man-made factors affecting its continued existence.

Species Biology and Evidence of Decline

Wood storks, the only true storks native to the United States, are large, long-legged wading birds which frequent freshwater and brackish wetlands and nest in cypress or mangrove swamps. They feed in freshwater marshes and similar habitats. Areas where fish become concentrated due to falling water levels are particularly attractive because they use specialized technique known as grope-feeding. The birds probe in muddy water 6–10 inches deep with bills partly open, feeling for fish.

Formerly, wood storks nested in the coastal southeastern States from South Carolina to Texas. Today nesting in the U.S. is confined to Florida and southeastern Georgia. The present U.S. breeding population is now disjunct from the population which nests from Mexico through Central and South America to northern Argentina. The Mexican and Central American breeders disperse into the southern U.S. after breeding. Hence, a dividing line most probably the Alabama-Mississippi State line, will be used to distinguish U.S. storks from the others.

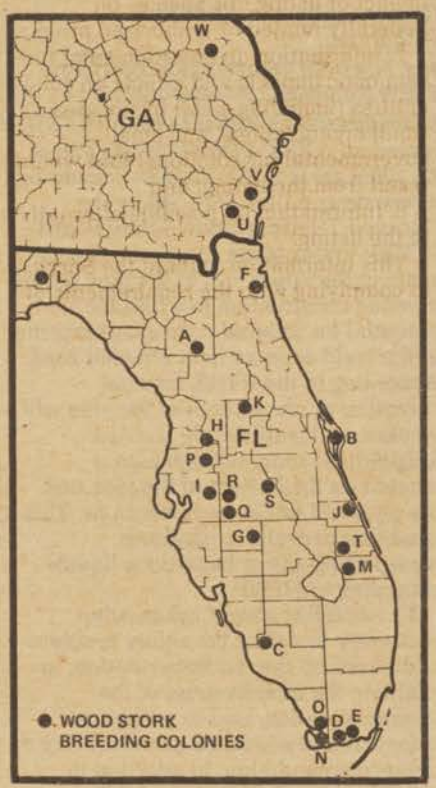
The U.S. wood stork population has declined significantly. In the early 1930's there were probably 75,000 storks breeding in Florida but by 1979 there were only 10,000. The most consistent nesting failures have occurred since 1960, with the overall number of breeding storks in the U.S. declining 41 percent from 19609 to 1975.

Two of the major factors involved in this decline are (1) the reduction in the number of available nesting sites and (2) loss of an adequate food base during the nesting season. Both factors are due primarily to drainage and altered hydroperiods from manipulation of wetlands, particularly in south Florida.

The U.S. wood stork population uses certain well-established rookery and feeding areas; the major ones are listed below. There are other rookery areas, but they are not as large or as consistently used. Similarly, only the major feeding habitats in south and central Florida are included. The approximate location of each rookery is shown by a corresponding letter in the map.

ROOKERY AREAS

County and name	Location
Florida	
A. Alachua, River Styx	T11S, R21E: Moses E. Levy land grant lot 11, 12.
B. Brevard, Moore Creek	T22S, R36E Sec. 15.
C. Collier, Corkscrew	T47S, R27E Sec. 9, 10, 15, 16, 21, 22.
D. Dade, Cuthbert	T60S, R35E, Sec. 13.
E. Dade, Madeira	T60S, R37E, Sec. 75.
F. Duval, Dee Dot Ranch.	T35, R38E, Sec. 24, 25N.
G. Hardee, El Clair Ranch.	T34S, R27E, Sec. 21SW.
H. Hernando, Croom	T22S, R21E Sec. 28.
I. Hillsborough, Pleasant Grove.	T30S, R22E, Sec. 5, 6.
J. Indian River, Pelican Island.	T31S, R39E, Sec. 9.
K. Lake, Lake Yale	T18S, R26E, Sec. 15.
L. Leon, Chaires	T1S, R2E, Sec. 4.
M. Martin, Barley Barber	T39S, R37E, Sec. 35.
N. Monroe, East River	T59S, R34E, Sec. 25.
O. Monroe, Lane River	T59S, R34E, Sec. 14.
P. Pasco, Little Gator Creek.	T25S, R22E, Sec. 24N, 13S.
Q. Polk, Brewster	T31S, R23E, Sec. 28SE.
R. Polk, Mulberry	T30S, R24E, Sec. 6.
S. Polk, Reedy Creek	T28S, R2SE, Sec. 1.
T. St. Lucie, Cypress Creek.	T37S, R37E, Sec. 2, 3.
Georgia	
U. Camden, Dover Bluff	6 mi. SSW Brunswick, Latitude 31°02', Longitude 81°31'.
V. Glynn, Brunswick	5 mi. SSW Darien, Latitude 31°17', Longitude 81°29'.
W. Jenkins, Big Duke Swamp.	3 mi. NNW Millen, Latitude 32°52', Longitude 82°02'.



FEEDING AREAS

State, county	Name
Florida, Brevard and Indian River.	St. Johns River marshes.
Florida, Collier	Cypress strands and sloughs.
Florida, Dade and Monroe.	Everglades National Park.
Florida, Glades	Lake Okeechobee west shore marshes.

Public Comments Solicited

With this notice of status review, the Service is requesting anyone who may have information on this species to contact the Area Manager at the above address. The Service has particular interest in receiving comments on the following:

1. Biological, commercial, or other relevant data concerning any threat (or the lack thereof) to this species;

2. The location of and the reasons why any habitat of this species should or should not be determined to be Critical Habitat as provided for by Section 4 of the Act;

3. Additional information concerning the range and distribution of this species;

4. Current or planned activities that might be detrimental or beneficial to the species in the above mentioned areas;

5. The probable impacts on such activities if the area is designated as Critical Habitat;

6. The forseeable economic and other impact of listing this species on Federally funded or authorized projects;

7. Information on environmental and economic impacts and effects on small entities (including small businesses, small organizations, and small governmental jurisdictions) that would result from the listing; and

8. Information on possible alternatives to the listing.

This information will aid the Service in complying with the requirements of the National Environmental Policy Act, Executive Order 12291 on Federal regulations, and the Regulatory Flexibility Act, and in preparing any required analyses of effect. The Service will analyze all data that it now has, as well as any data that it obtained as a result of this review, and will take appropriate action concerning the species.

Selected References

Kahl, M.P., Jr. 1964. Food ecology of the wood stork (*Mycteria americana*) in Florida. Ecol. Monogr. 34:97–117.

Kale, H.W., II, ed. 1978. Rare and endangered biota of Florida: Birds, Vol. 2. Florida Game and Fresh Water Fish Commission, Gainesville. 121 pp.

Ogden, J.C., J.A. Kushlan, and J.T. Tilmant. 1978. The food habits and nesting success of wood storks in Everglades National Park in 1974. Nat. Park Serv. Natural Resources Rep. No. 16, 25 pp.

Ogden, J.C., and S.A. Nesbitt. 1979. Recent wood stork population trends in the United States. Wilson Bull. 91:512–523.

Ogden, J.C., and B.W. Patty. In press. The recent status of the wood stork in Florida and Georgia. Proc. Symp. Nongame and Endangered Wildlife. August 13–14, 1981; Athens, Georgia.

Palmer, R.S. 1962. Handbook of North America birds, Vol. 1. Yale Univ. Press, New Haven, Connecticut. 566 pp.

This Notice of Status Review was prepared by Gail S. Baker, U.S. Fish and Wildlife Service, Jacksonville Area Office, 15 North Laura Street, Jacksonville, Florida 32202 (904–791–2267 or FTS 946–2267).

Dated: February 5, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82–3673 Filed 2–12–82; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 47, No. 31
Tuesday, February 16, 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

Rural Electrification Administration

East Kentucky Power Cooperative, Winchester, Ky.; Finding of No Significant Impact

Notice is hereby given that the Rural Electrification Administration (REA) has made a Finding of No Significant Impact with respect to the proposed financing assistance to East Kentucky Power Cooperative (EKPC) of Winchester, Kentucky, for the following:

—Construction of 32 km (20.5 mi) of 138 kV transmission line from Leon to Elliotville;

—Construction of 37 km (23 mi) of 138 kV transmission line from Avon to Holloway with upgrading of the Fayette #1, Davis, Nicholasville and Holloway Substations from 69/15 kV to 138/15 kV and construction of a 138 kV switching station at Holloway Junction;

—Construction of 27.5 km (17.1 mi) of 161 kV transmission line from Tyner to Manchester; and

—Reconductoring of 19.5 km (12.2 mi) of 69 kV transmission line from Nelson to Elizabethtown; construction of 3.5 km (2.2 mi) of 138 kV double circuit line from the Nelson County Substation to the 69 kV transmission line that traverses between Elizabethtown and Bardstown; construction of a 138/69 kV substation in Nelson County and construction of 5.6 km (3.5 mi) of 138 kV transmission line from the substation proposed in Nelson County to an existing substation at Woosley.

The projects will be located in Carter, Clay, Elliott, Fayette, Hardin, Jackson, Jessamine, Larue and Nelson Counties, Kentucky.

REA reviewed the BER's submitted by EKPC and determined that they represent an accurate evaluation of the environmental impacts of the projects. Based upon the BER's, maps and related pertinent data submitted by EKPC, REA prepared four Environmental Assessments (EA's) concerning the proposed facilities and their impacts. It is REA's view that the proposed financing assistance will not be a major Federal action that will significantly affect the quality of the human environment.

REA has determined that the proposed projects will have no effect on wetlands and threatened or endangered species and no significant adverse effect on prime farmland, floodplains or known cultural resources. Existing lines which will be rebuilt or reconductored cross approximately 58 ha (133 a) of floodplain; existing stations have taken approximately 1 ha (2 a) of important farmland out of production. New lines will cross approximately 196 ha (490 a) of important farmland and 100 ha (240 a) of floodplains; one new station will take approximately 1 ha (2 a) of important farmland out of production. Also, both Nelson County and Holloway Junction Stations will be surveyed for cultural resources and cleared by REA and the State Historic Preservation Officer prior to any site clearing. Overall, the construction and operation of the proposed facilities will have no unacceptable impacts to the environment.

A number of alternatives were considered by EKPC including no action, conservation and various transmission line routes and substation sites. REA finds that the proposed alternatives are acceptable for each project as they meet the needs of members' consumers with a minimum of adverse impacts.

REA's Finding of No Significant Impact and EA's along with EKPC's BER's and related materials may be reviewed in or requested from the Office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone: (202) 382–1400, or may be reviewed in the office of EKPC (Mr. Donald R. Norris, Manager), P.O. Box 707, Winchester, Kentucky 40391, telephone: (606) 744–4812.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 8th day of February 1982.

Jack Van Mark,
Acting Administrator.

[FR Doc. 82-3866 Filed 2-12-82; 8:45 am]
BILLING CODE 3410-15-M

French Broad Electric Membership Cooperative, Marshall, N.C.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact in connection with possible financing assistance by REA for French Broad Electric Membership Cooperative (French Broad) of Marshall, North Carolina, in renovating the Capitola Dam in Madison County, North Carolina.

The existing dam and powerhouse will be renovated and connected electrically to the existing Marshall Substation by an existing 2-mile long, three phase distribution line. Renovation of Capitola will include regrouting the existing dam and adding a splash block and new sluice gates, demolition of the existing powerhouse and intake structure, construction of a new powerhouse with two (2) 1.5 MW turbine units and renovation of the intake canal. French Broad has prepared a Borrower's Environmental Report concerning the proposed project. An Environmental Assessment was prepared by REA.

Threatened and endangered species, important farmlands, cultural resources, wetlands and floodplains, and other potential impacts of the project are adequately considered in French Broad's Borrower's Environmental Report and REA's Environmental Assessment.

Various alternatives to the proposed hydroelectric facility were reviewed by French Broad and REA. The alternatives include no action, alternate generation from coal, oil and gas, solar, wind, biomass, nuclear participation and energy conservation.

It is REA's independent evaluation that the proposed project is an environmentally acceptable alternative to provide power to the existing and projected loads of French Broad.

Copies of REA's Finding of No Significant Impact and supporting documents may be reviewed at, or obtained from, the office of the Director,

Energy Management and Utilization Division, Room 3862, South Agricultural Building, Rural Electrification Administration, Washington, D.C. 20250, and at the office of French Broad Electric Membership Cooperative, Marshall, North Carolina 28753.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 5th day of February 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-3859 Filed 2-12-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Indian Creek-Van Buren Watershed, Iowa and Missouri; Availability of Record of Decision

AGENCY: Soil Conservation Service, Agriculture (USDA).

ACTION: Notice of Availability of a Record of Decision.

FOR FURTHER INFORMATION CONTACT: William J. Brune, State Conservationist, Soil Conservation Service, 210 Walnut Street, Room 693, Federal Building, Des Moines, Iowa 50309, telephone 515-284-4260.

NOTICE: William J. Brune, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1008, in the State of Iowa, is hereby providing notification that a record of decision to proceed with the installation of the Indian Creek-Van Buren Watershed project is available. Single copies of this record of decision may be obtained from William J. Brune at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and Local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: January 25, 1982.

William J. Brune,

State Conservationist.

[FR Doc. 82-3898 Filed 2-12-82; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Cancelled 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 Alabama Advisory Committee of the Commission originally scheduled for February 25, 1982, at Montgomery, Alabama, (FR Doc. 82-1228, on page 2788) has been cancelled.

Dated at Washington, D.C., February 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3992 Filed 2-12-82; 8:45 am]

BILLING CODE 6335-01-M

Georgia Advisory Committee; Changed 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 Georgia Advisory Committee to the Commission orginally scheduled for February 25, 1982, at Atlanta, Georgia, (FR. Doc. 82-1229, on page 2788) has been changed.

The meeting now will be held on March 12, 1982, beginning at 2:00 p.m., and will end at 6:00 p.m., at the Peachtree Plaza Hotel, Peachtree at International Boulevard, in the Tower Meeting Room, Number 10, Atlanta, Georgia, 30343. The purpose of this meeting is to have a discussion on the followup plan to the factfinding meeting on bigotry and violence and to review the draft of the State Advisory Committee voting rights study.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Clayton Sinclair, 5095 Dublin Drive, N.W., Atlanta, Georgia, 30300, (404) 349-3861 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Room 362, Atlanta, Georgia, 30303, (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3993 Filed 2-12-82; 8:45 am]

BILLING CODE 6335-01-M

Mississippi Advisory Committee; Changed 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 Mississippi Advisory Committee of the Commission originally scheduled for February 25, 1982, at Jackson, Mississippi, (FR Doc. 82-1232, on page 2788) has been changed.

The meeting now will be held on March 4, 1982, beginning at 3:30 p.m., and will end at 7:30 p.m., at the Holiday Inn, Downtown, 200 East Amite, in the Willow Room, Jackson, Mississippi, 39205. The purpose of this meeting is to review the draft report of the State Advisory Committee voting rights study and to discuss program plans for fiscal year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mary Ramberg, 1514 Gay Street, Jackson, Mississippi, 39211, (601) 355-1175 or the Southern Regional Office, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Room 362, Atlanta, Georgia, 30303, (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., February 10, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-3991 Filed 2-12-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington D.C. 20230, on or before March 28, 1982.

Regulations (15 CFR 301.9) issued under the cited Act prescribed the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 2097 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 82-00049. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Admin. Bldg., 506 South Wright Street, Urbana, IL 61801. Article:

Excimer Multi-gas laser, Model EMG–102. Manufacturer: Lambda Physics GMBH & Co., West Germany. Intended use of article: The article is intended to be used to provide a source of coherent radiation in the ultraviolet with high peak powers and repetition rates and will be used to conduct experiments concerning the growth of semiconductor thin films. The article will produce the desired atomic species by the multi-photon photolysis of various gases (e.g. SiH4, GeH4) which leads to film deposition from the vapor phase. The article will also be used to teach the basic principles and techniques of laser applications to thin film growth and processing. Application received by Commissioner of Customs: November 18, 1981.

Docket No. 82–00059. Applicant: Brookhaven National Laboratory, Associated Universities, Inc., Upton, Long Island, NY 11973. Article: Hydrogen Thyratrons (53 each). Manufacturer: English Electric Valve Ltd., United Kingdom. Intended use of article: The article is intended to be used to accelerate polarized protons for HEP experiments and a great potential for discovering new phenomena exists in this new energy range. In order to maintain polarization during the accelerating cycle in the article, intrinsic resonances which tend to depolarize the accelerated beam must be crossed within a few μsec. The electrical circuitry which energizes the pulsed quadrupoles used for efficient crossing of these resonances, requires this type of fast switching thyratrons. Application received by Commissioner of Customs: November 20, 1981.

Docket No. 82–00062. Applicant: University of Florida, Division of Comparative Pathology, College of Veterinary Medicine, Box J–145, JHMHC, Gainesville, FL 32610. Article: Electron Microscope, Model EM 10CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used primarily to identify the molecular details of complement (Blood) proteins and their interactions with cellular membranes. Investigations will be conducted to establish a relationship between the biomedical function of complement proteins and their molecular structure. Once such structure-function relationships are understood it may become possible to intervene with the pathological consequences of complement diseases. In addition, the article will be used to train advanced graduate students and postdoctural fellows in high resolution electron microscopy and structure analysis of proteins. Application received by Commissioner of Customs: December 11, 1981.

Docket No. 82–00076. Applicant: The University of New Mexico, Purchasing Department, 609 Buena Vista NE, Albuquerque, NM 87131. Article: Electron Microscope, Model H–600–2 and Accessories. Manufacturer: Hitachi, Ltd, Japan. Intended use of article: The article is intended to be used for investigations of membranes, cell organelles, nuclei, probe-mediated identification of receptor sites; and eventually analytical examination of energy dispersion of cells and tissues in normal and pathological states. The objective of these investigations include an increased understanding of the generation of new information about biological ultrastructure in health and disease. Application received by Commissioner of Customs: January 6, 1982.

Docket No. 82–00077. Applicant: Maritime Institute of Technology and Graduate Studies, IOMM7P Mates Program, 5700 Hammonds Ferry Road, Linthicum Heights, MD 21090. Article: Shiphandling Simulator for Shiphandling and Navigation Training. Manufacturer: Vereinigte Flugtechnische Wereke, West Germany. Intended use of article: The article is intended to be used for educational purposes in a shiphandling course. The overall objective of the course is to improve the ability of the merchant officer, with emphasis on masters and chief mates, to plan and execute safe, proper and adequate operations in scenarios which place own ship in variety of potential realistic situations, as well as a thorough understanding of the internal and external force causes and effects on ship and to provide a basis for a standard bridge team organization which could apply to all types of vessels, under various operation conditions. Application received by commissioner of customs: January 5, 1982.

Docket No. 82–00078. Applicant: Washington State University, College of Veterinary Medicine, Department of Veterinary and Comparative Anatomy, Pharmocology and Physiology, Wegner Hall, Pullman, WA 99164. Article: Electron Microscope, Model H–600–3 with Accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used for the investigation of biological samples which include animal tissues, viruses, in vitro cellular preparations, and macromolecular complexes (e.g., collagen, DNA, glycosaminoglycans, etc.). Experiments will involve morphological and/or quantitative evaluation of macromolecules (biological), cellular organelles, cells, and tissues. Graduate students enrolled in special-study courses to investigate research problems in the above mentioned areas will be the only educationally-affiliated instruction on this article. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00079. Applicant: St. Vincent Medical Center, 2131 West Third Street, P.O. Box 57992, Foy Street Station, Los Angeles, CA 90057. Article: Stereotactic Head Set. Manufacturer: F.L. Fischer GMBL & Co., West Germany. Intended use of article: The article is intended to be used in investigations made and directed toward further development and refinement of CT based stereotactic techniques in brain tumors diagnosis and treatment. The investigations will be clinically oriented with the objectives of potential benefits to the patients themselves as well as to future patients. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00080. Applicant: Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85705. Article: Repair of Klystron, VRB2113A30 SNO552D8. Manufacturer: Varian Canada, Inc., Canada. Intended use of article: The article is intended to be used as phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00081. Applicant: University of Kentucky Medical Center, Department of Pathology, Lexington, Kentucky 40536. Article: Electron Microscope, Model JEM 100 and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use article: The article is intended to be used for the training of new technicians in basic and advanced techniques in electron microscopy. As part of their formal training in surgical pathology, residents in the Department shall be required to spend a one month rotation in the electron microscope laboratory to become familiar with the basic techniques of specimen preparation and obtain hands on experience in the operation of the article. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00083. Applicant: Western Pennsylvania Hospital, 4800

Friendship Avenue, Pittsburgh, PA 15224. Article: Electron Microscope, Model EM 109 and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in resolving diagnostic problems in Anatomical Pathology. The major areas of application are in the diagnosis of renal diseases, in the examination of neoplasms and in search of viruses in tissues and exudates. Application received by commissioner of customs: January 6, 1982.

Docket No. 82–00090. Applicant: National Cancer Institute, Drug Design and Chemistry Section, LMCB, DTP, DCT, NCI, NIH, Bethesda, MD 20205. Article: Mass Spectrometer, Model MM7070E. Manufacturer: VG Analytical, Ltd., United Kingdom. Intended use of article: The article is intended to be used to characterize the chemistry, mechanism of action, *in vivo* disposition and *in vitro* and *in vivo* metabolism of existing, new and potential anticancer drugs as well as to investigate chemical and biochemical phenomena related to cancer chemotherapy.

The materials to be analyzed will range from relatively simple organic materials with a molecular weight of a few hundred daltons used as intermediates in the synthesis of more complex molecules to biopolymers isolated from biological sources and possessing molecular weights of several thousand daltons. Derivatives of the following classes of compounds will be of interest: amino acids, fatty acids and esters, classical and non-classical alkylating agents, 1,4-benzoquinones, macrocyclic antibiotics, nucleosides, nucleotides, glycosides, organo platinum complexes and oligopeptides. Also of interest are the species that are produced when certain of the above compounds undergo chemcial degradation, transformation and derivatization or metabolic conversion in vitro and in vivo. The samples to be studied will include solids, liquids and gases. Application received by commissioner of customs: January 11, 1982.

Docket No. 82–00091. Applicant: University of Illinois Chicago Circle, Department of Chemistry, Box 4348, Chicago, Ill. 60680. Article: Nanosecond Flourometer System. Manufacturer: Photochemical Research Assoc., Inc., Canada. Intended use of article: The article is intended to be used in vitro studies of the binding of the carcinogenic hydrocarbon metabolites to nucleotides and polynucleotides. The binding properties of the hydrocarbon metabolites will be studied by examining flourescence lifetime quantum yields and flourescence quenching. These are directly related to the hydrocarbon environment. Application received by commissioner of customs: January 12, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty Free Educational and Scientific Materials.)

Frank W. Creel,

Acting Director,

Statutory Import Programs Staff.

[FR Doc. 82–4051 Filed 2–12–82; 8:45 am]

BILLING CODE 3510–25–M

International Affiliates Co., Inc., et al.; Order Amending Temporary Denial of Export Privileges

In the matter of: Albert A. Goldberg, President, International Affiliates Co., Inc. and National-Tronics Company, 134 West 32nd Street, New York, New York 10001; International Affiliates Co., Inc., 134 West 32nd Street, New York, New York 10001; National-Tronics Company, 134 West 32nd Street, New York, New York 10001; Sarfraz A. Mir, Managing Director, S.J. Enterprises, 15—Block 14 Super Market, F–6, Islamabad, Pakistan and 37–B School Road, 58–3, Islamabad, Pakistan; S.J. Enterprises, 15—Block 14 Super Market F–6, Islamabad, Pakistan and P.O. Box 1361, Islamabad, Pakistan.

By Order of November 19, 1981, 46 FR 57716 (November 25, 1981), the above-named respondents were temporarily denied all privileges of participating in any manner or capacity in the export of U.S.-origin commodities or technical data.

Paragraph III of that Order, consistent with Section 387.12(c) of the Export Administration Regulations (15 CFR Part 368, *et seq.* (1981)), provides:

> Such denial of export privileges shall extend not only to the respondents, but also to their agents and employees and to any successor and to any person, firm, corporation, or business organization with which they now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or services related thereto. Business organizations now known to be owned by or affiliated with the respondents specifically include:
>
> Gorez Corporation Inc., 134 West 32nd Street, New York, New York 10001 ITL Corporation Inc., 134 West 32nd Street, New York, New York 10001
>
> Inter-Tronics Co., Inc., 134 West 32nd Street, New York, New York 10001
>
> S.J. Enterprises, 10 Wahbat Road, Lahore, Pakistan
>
> S.J. Enterprises, 13–A, Mohammad Ali Housing Society, Miran Mohammad Shad Road, Carachi, Pakistan

The Department of Commerce has now stated that respondent S.J. Enterprises has a related business organization, K.S. and Associates, 37–B School Road, F/8–1, Islamabad, Pakistan, and that this related business organization is managed by respondent Sarfraz A. Mir, Managing Director of S.J. Enterprises. The Department has stated that therefore K.S. and Associates comes within the definition of a related business organization as set forth in Paragraph III of the November 19, 1981 Order. Consequently, the Department has requested that K.S. and Associates be added to the business organizations related to the respondents listed in Paragraph III of the Order.

Based upon the showing made by the Department, I find that, to prevent evasion of the November 19, 1981 Order, an amendment of the Order, adding K.S. and Associates to the business organizations listed in Paragraph III, is required.

Accordingly, it is hereby

Ordered

The November 19, 1981 Order shall be amended by adding, to the business organizations listed in Paragraph III, the following business organization: K.S. and Associates, 37–B School Road, F/8–1, Islamabad, Pakistan.

K.S. and Associates may move at any time to vacate or modify this Order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Room 3886D, 14th and Constitution Avenue, NW, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which, if requested, shall be held before the Hearing Commissioner at the earliest convenient date.

This Order is effective immediately. It remains in effect until the final disposition of any administrative or judicial proceeding or proceedings initiated against the named respondents have been completed.

Dated: February 3, 1982.

Thomas W. Hoya,

Hearing Commissioner.

[FR Doc. 82–4002 Filed 2–12–82; 8:45 am]

BILLING CODE 3510–25–M

Replacement Parts for Self-Propelled Bituminous Paving Equipment From Canada; Final Results of Administrative Review of Antidumping Finding.

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding

SUMMARY: On September 30, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on replacement parts for self-propelled bituminous paving equipment from Canada. The review covered six of the seven known exporters for various time periods through August 31, 1980.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We have calculated new margins for three exporters in response to comments received. We are delaying publication of the final results for one company while we seek clarification of certain submitted data.

EFFECTIVE DATE: February 16, 1982.

FOR FURTHER INFORMATION CONTACT: Brian Kelly or David R. Chapman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2923/2657).

SUPPLEMENTARY INFORMATION:

Background

On September 7, 1977, the Treasury Department published in the **Federal Register** an antidumping finding with respect to parts for self-propelled bituminous paving equipment from Canada (T.D. 77-222, 42 FR 44811). On September 30, 1981, the Department of Commerce ("the Department") published in the **Federal Register** the preliminary results of its administrative review of the finding (46 FR 47806). The Department has now completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of replacement parts for self-propelled bituminous paving equipment.

The completed review covers five of the six known Canadian firms which exported paving parts to the United States for various periods through August 31, 1980. For the sixth firm we have not yet completed our review; we will publish the final results for this firm later. For a seventh firm, a new shipper, we have determined a cash deposit based on its shipments in the period February 1, 1981, through May 31, 1981. The firms and review periods are listed below.

Analysis of Comments Received

We have received comments from one exporter, S. F. Tubing, Ltd., clarifying that its shipments of parts during the review period were entirely to original equipment manufacturers. Because such parts are outside the scope of the finding, we have determined that there are no duties due on these shipments, and have lowered the margin for S. F. Tubing to zero. For the two non-responsive manufacturers, Anvil Manufacturing Co. and Parker Hannifin, we have set the margin at the rate calculated during the original fair value investigation rather than at the highest current rate, used in the preliminary results.

Due to extensive comments by a domestic firm questioning the adequacy of Babcock Allatt's submissions, we have decided to delay publication of the final results for Allatt pending verification and an opportunity to comment.

Final Results of the Review

As a result of adjustments made based on comments received, we determine that the following weighted average margins exist:

Exporter	Period	Margin (Percent)
Anvil Manufacturing Co.	7/1/78-8/31/80	20.12
Barber-Greene Canada Ltd	4/1/77-8/31/80	[1] 0.0
General Construction Equipment Manufacturing Ltd	4/1/77-8/31/80	[1] 0.0
Parker Hannifin	7/1/78-8/31/79;	[1] 0.0
	9/1/79-8/31/80	20.12
S. F. Tubing Ltd	7/1/78-8/31/80	[1] 0.0

[1] No shipments of replacement parts during the review period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties, if applicable, on all entries with purchase dates during the periods involved. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments by these firms entered, or withdrawn from warehouse, for consumption on or after February 16, 1982. The deposit rate for the new exporter, National Paver Parts, shall be 1.05%, based on our preliminary analysis of shipments made between February 1, 1981, and May 31, 1981. The Department shall complete analysis of these shipments in the next administrative review. For any shipment from a new exporter other than National Paver Parts not covered in this administrative review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period. These requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of September 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

February 1, 1982.

[FR Doc. 82-3958 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Marine Mammals; Notice of Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the 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: Mr. Richard L. Merrick (P299).
   b. Address: School of Oceanography, Oregon State University, Corvallis, Oregon 97331.
2. Type of permit: Scientific Research.
3. Name and number of animals: Stellar Sea Lion (Eumetopias jubatus), 924.
4. Type of take:
   Potential harassment, 860.
   Marking by dye, 64.
5. Location of activity: Rogue Reef, Oregon.
6. Period of activity: 1 year.

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 this application 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 March 18, 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 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.

Documents submitted in connection with the above application are available for review in the following office:
Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;
and
Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, N.E., BIN C15700, Seattle, Washington 98115.

Dated: February 10, 1982.

R. B. Brumsted,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-4053 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing a New Export Visa Requirement and Exempt Certification for Certain Cotton, Wool and Man-Made Fiber Apparel Products Produced or Manufactured in Singapore

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing a new visa requirement and exempt certification for certain cotton, wool and man-made fiber apparel products, produced or manufactured in Singapore, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore.

SUMMARY: The Governments of the United States and the Republic of Singapore have exchanged letters dated August 19, 1981 establishing a new export visa requirement and exempt certification for cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, produced or manufactured in Singapore. The new arrangement supersedes the existing visa requirement which became effective on November 5, 1980 (45 FR 71409).

(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) and October 27, 1981 (46 FR 52409)).

EFFECTIVE DATE: April 1, 1982 for cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, exported on and after that date. Merchandise exported before April 1, 1982, shall not be denied entry if accompanied by the previously authorized export visa stamp, provided all other requirements associated with the use of that stamp have been met.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On and after April 1, 1982, cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659 which are subject to the terms of the bilateral agreement shall be visaed with a circular stamp in order to be entered or withdrawn from warehouse for consumption in the United States. Shipments which are exempt from the quantitative limits of the bilateral agreement shall be certified for exemption prior to exportation by the Government of the Republic of Singapore. The basis for exemption shall be stated on the certification by use of a description, such as, "less than US $250," "handloomed fabric," or "handmade cottage industry products". Invoices for certified exempt items shall not include any products that are not agreed to be exempt. Shipments of textile products that are certified for exemption do not require an export visa.

Merchandise imported for the personal use of the importer, and not for resale, does not require a visa or exempt certification for entry, regardless of value.

Shipments shall be visaed or certified by the placing of original stamped markings (the visa or certification) in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used). Each visa and certification shall include the number, date and signature of the authorized issuing official. The visa also states the correct categories and quantities in the shipment in the applicable category units; however, if the quantity shown on the export visa is more than the actual quantity of the shipment, entry shall be permitted despite the inaccuracy.

Facsimiles of the visa and exempt certification stamps are published as enclosures to the letter to the Commissioner of Customs which follows this notice.

The Government of the Republic of Singapore has authorized the following officials to issue visas and exempt certifications:

Indira Devi
Lim Khay Hai
Tay Guek Khiam
See Swee Kim
Kan Kan Koon
Ngan Ai Lan
Irene Mok
Mohamed Saimi Bin Talib
Chong Yean Wah
Mok Moh Wan

Interested persons are advised to take all necessary steps to insure that apparel products, produced or manufactured in Singapore which are to be entered into the United States for consumption, or withdrawn from warehouse for consumption on and after April 1, 1982, will meet the stated visa and certification requirements.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 10, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This letter cancels and supersedes the directive of October 24, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements which established an export visa requirement for cotton, wool and man-made fiber apparel products, produced or manufactured in Singapore.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on April 1, 1982 and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, produced or manufactured in Singapore, and exported on and after April 1, 1982, for which the Government of the Republic of Singapore has not issued an appropriate export visa or certification for exemption. Cotton, wool and man-made fiber apparel products which have been exported before April 1, 1982, which are visaed in accordance with previously established procedures shall not be denied entry.

Cotton, wool and man-made fiber apparel products in Categories 330–359, 431–459 and 630–659, exported on and after April 1, 1982, other than the exceptions specified in the following paragraph, shall be visaed with a circular stemp in order to be entered into the

United States for consumption, or withdrawn from warehouse for consumption.

Certain cotton, wool an man-made fiber apparel products exported and and after April 1, 1982, which are exempt from the levels of restraint of the bilateral agreement, shall be certified by the Government of the Republic of Singapore prior to exportation using a square-shaped stamp. The basis for exemption shall be stated on the certification by use of a description, such as "less than US $250," "handloomed fabric," or "handmade cottage industry product."

Merchandise shall be visaed or certified by the placing of original stamped markings (the visa or certification) in blue ink on the front of the invoice (Special Customs Invoice Form 5515, successor document, or commercial invoice, when such form is used). Each visa and certification shall include the number date and signature of the issuing official. The visa shall also state the correct categories and quantities in the shipment in the applicable category units, except that, if the quantity indicated on the export visa is more than that of the shipment, entry shall be permited. The categories and quantities shall be those determined by the U.S. Customs Service. Facsimiles of the visa and certification stamps are enclosed.

Merchandise imported for the personal use of the importer, and not for resale, does not require a visa or certification for entry, regardless of value.

Merchandise covered by an invoice which has an exempt certification but contains both exempt and non-exempt textile products shall not be permitted entry. Merchandise which is certified exempt does not require an export visa.

You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of textile products, produced or manufactured in Singapore and exported to the United States, notwithstanding the designated merchandise does not fulfill the aforementioned visa and certification requirements, whenever requested to do so in writing by the Chairman of the Committee for the Implementation of Textile Agreements.

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) and October 27, 1981 (46 FR 52409).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Singapore and with respect to imports of cotton, wool and man-made fiber apparel products from Singapore 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.



EXPORT CERTIFICATE

Certificate No .....

This authorised consignment is exempted from quantitative level of the USA/Singapore Agreement on the basis of:

☐ Value less than US$250,
☐ handloomed fabric, handmade cottage industry product etc

CONTROLLER IMPORTS & EXPORTS SINGAPORE

for Controller of Imports & Exports Republic of Singapore

Dated .....

[FR Doc. 82-4054 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Navy

Intent To File a Draft Environmental Impact Statement on the Potential Consolidation of Navy Administrative Office Space in the Washington, D.C. Area

Notice is hereby given of intent to file a Draft Environmental Impact Statement (DEIS) on the potential consolidation of Navy administrative offices now located in leased buildings in the Washington, D.C. area. Potentially affected by this consolidation are approximately 18,000 Navy military and civilian employees now working at thirteen locations in the District of Columbia, Maryland, and Virginia, with the greatest number in the Virginia suburbs of Washington.

Four locations are under study as potential sites for the consolidated offices: (1) the Washington Navy Yard/Southeast Federal Center tract in southeast Washington, D.C.; (2) the Naval Surface Weapons Center at White Oak, Maryland; (3) the Pentagon site in Arlington, Virginia; and (4) the Crystal City complex of buildings, also in Arlington, Virginia.

To effect scoping for the DEIS, three hearings will be held, one for interested Government agencies and two for the general public. The first hearing, for interested Government agencies, will be held at 10:00 a.m. on February 12, 1982, in the National Capital Planning Commission Boardroom, tenth floor, 1325 G Street Northwest, Washington, D.C. The second hearing, for the general public, will be held at 7:00 p.m. on February 16, 1982, at the Aurora Hills Recreation Center, 735 South Hayes Street (South Hayes at 18th Street, near Crystal City), Arlington, Virginia. A third hearing, for the general public, will be held at 7 p.m. on March 2, 1982 at the Aurora Hills Recreation Center, 735 South Hages Street South Hages at 18th Street, near Cystal City, Arlington, Virginia.

At each of the three hearings, a short presentation describing the potential consolidation will be given, to be followed by an opportunity for agency or public comment. Comments presented at these hearings should address the scope of the DEIS, identifying environmental issues or problems which should be considered in its preparation. When the DEIS is filed, an additional public hearing or hearings, will be held at a location, date, and time to be determined.

Members of the general public wishing to speak at the February 16, 1982, a March 2, 1982, hearing may register by contracting: EDAW, Inc. (Attenation: Tony Duncanson), 601 Prince Street, Alexandria, Virginia 22314, Telephone (703) 836-1414.

Speakers may also register on the evening of hearings by completing a

registration card at the door. Oral statements at the hearings will be limited to five minutes. Lengthy comments should be submitted in writing and summarized orally. Only registered speakers will be recognized. Written comments are not required, but are encouraged to ensure accuracy. Written comments will be accepted at the hearings or at the above address during normal business hours before or after the hearings, until March 12, 1982.

Dated: February 11, 1982.

F. N. Ottie,

Lieutenant Commander, JAGC, U.S. Navy Alternate Federal Register Liaison Officer.

[FR Doc. 82-4134 Filed 2-12-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Education Appeal Board; Application for Review Accepted for Hearing

AGENCY: Department of Education.

ACTION: Notice of Applications for Review Accepted for Hearing by Education Appeal Board.

SUMMARY: This notice lists the applications for review that were received and accepted for hearing by the Education Appeal Board between August 1, 1981, and December 15, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue SW. (Room 2141, FOB-6), Washington, D.C. 20202. Telephone: (202) 245-7835.

SUPPLEMENTARY INFORMATION: Under sections 451 through 454 of the General Education Provisions Act (20 U.S.C. 1234 et seq.), the Education Appeal Board has authority to conduct (1) audit appeal hearings, (2) withholding, termination, and cease and desist hearings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board.

The Secretary has designated the Board as having jurisdiction over appeal proceedings related to final audit determinations, the withholding or termination of funds, and cease and desist actions for most programs administered by the Department of Education (ED). The Secretary also has designated the Board as having jurisdiction to conduct hearings concerning most ED administered programs that involve a determination that a grant is void, the dissapproval of a request for permission to incur an expenditure during the term of a grant, or determinations regarding cost allocation plans or special rates negotiated with specified grantees. Final regulations governing Board jurisdiction and procedures were published in the **Final Register** on May 18, 1981 (46 FR 27304).

This notice lists the applications for review that were received and accepted for hearing by the Education Appeal Board between August 1, 1981, and December 15, 1981. The notice also explains how interested third parties may intervene in proceedings before the Board.

A number of the appeals involve audits of programs conducted under Title I of the Elementary and Secondary Education Act (Title I):

Appeal of the Commonwealth of Virginia, Docket No. 14-(79)-81

The State appealed a final audit determination by the Assistant Secretary for Elementary and Secondary Education that the State used Title I funds and similar Federal funds granted under Pub. L. 81-874, Impact Aid, for general education activities rather than for activities designed to meet the special educational needs of educationally deprived children as required by law. The final audit determination was based on an audit by the Department of Education's Office of the Inspector General Audit Agency (OIGAA) of projects conducted at five local educational agencies (LEAs) during fiscal years (FYs) 1977-79.

The Assistant Secretary sustained the OIGAA finding that personnel costs for a preschool program at the Richmond City LEA were improperly paid with $635,793 in Title I and Impact Aid funds during FYs 1977-79 because the program was not designed or implemented to serve educationally deprived children. The auditors found that the LEA admitted children to the preschool program on a space-available basis and made no attempt to select children on the basis of educational need as required by Federal regulations.

The Assistant Secretary also upheld the OIGAA finding that the Richmond City LEA used Federal funds totaling $188,182 for other activities not designed or implemented to meet identified needs of educationally deprived children. Finally, the Assistant Secretary disallowed $234,477 of Title I funds expended by the Portsmouth LEA for the salaries of home service workers who the auditors found provided general supportive attendance services to the LEA during school years 1976-77 through 1978-79.

In its appeal, the State disputes all of the Assistant Secretary's findings. The Department of Education seeks a total refund of $1,058,452 from the State. This amount may be reduced by application of the statute of limitations.

Appeal of the State of West Virginia, Docket No. 15-(80)-81

The State appealed a final audit determination of the Assistant Secretary for Elementary and Secondary Education, which was based on an audit of the State's administration of Title I conducted by the Department of Education's Office of the Inspector General Audit Agency. The Assistant Secretary found that four Title I schools at the Wyoming County School District (LEA) did not receive services provided with State and local funds comparable to services provided non-Title I schools during the 1977-78 and 1978-79 school years. This constituted a failure to comply with Title I comparability requirements. The Assistant Secretary also determined that the LEA improperly used Title I funds to meet the general needs of schools during fiscal years 1976-79 by expending the funds for general purpose textbooks, general program personnel, and general program travel. The Department of Education seeks a total refund of $109,201 from the State.

Appeal of the State of Maryland, Docket No. 16-(81)-81

The State appealed a final audit determination made by the Assistant Secretary for Elementary and Secondary Education concerning Title I funds spent during fiscal years (FYs) 1975-78 at the Baltimore City School System (the LEA). The final audit determination was based on an audit conducted by the Department of Education's Office of the Inspector General Audit Agency (OIGAA).

The Assistant Secretary found that the LEA had spent Title I funds for salaries of librarians and library aides who provided services to entire student bodies, thus violating the Title I prohibition against general aid. The Assistant Secretary also determined that the funding of health services provided by the LEA in FY 1978 with Title I monies violated the law's "supplement, not supplant" requirement because Title I children in the aggregate, did not receive as high a level of State and locally funded nursing services as non-Title I children. He disallowed the use of Title I funds to pay a number of education specialists in FY 1978 who

were found to have performed general services aimed at entire classes, grades, and schools. The Assistant Secretary further determined that the LEA improperly used Title I funds at eighty-three schools not selected as Title I project schools during FYs 1976–78. He also disallowed salary charges for office personnel paid solely from Title I funds because the employees did not work exclusively for Title I or other Federal programs. Finally, the Assistant Secretary disallowed Title I costs which the LEA could not show were used for its summer and regular Early Childhood and Exceptional Children programs.

The Assistant Secretary directed the State to assist in LEA in revising its fiscal reports of FY's 1976–78 in order to reconcile the LEA's reports with the City's fiscal records. He requested that the State submit the revised report to the Department of Education and make proper adjustments for any differences revealed by the reconciliation, and that the State refund $3,370,355 to the Department.

The State disputes all of these findings in its appeal. The amount in dispute may be reduced by application of the statute of limitations.

Appeal of the State of Oregon, Docket No. 22–(87)–81

The State appealed a final audit determination issued by the Assistant Secretary for Elementary and Secondary Education concerning the State Department of Education's administration of the Migrant Student Record Transfer System (MSRTS) authorized by Title I. The final audit determination was based on an audit conducted by the Department of Education's Office of the Inspector General Audit Agency (OIGAA). The purpose of the audit was to determine whether the MSRTS reflected the accurate number of eligible migratory children residing in the State and whether it was provided accurate input from the local educational agencies (LEAs).

The Assistant Secretary sustained part of the OIGAA's findings and recommendations and found that a number of students were ineligible to receive migrant program education services. The Department seeks a refund of $20,526 from the State. This amount is a projection based on the number of students found ineligible by the Assistant Secretary.

Appeal of the State of Maryland, Docket No. 24–(89)–81

The State appealed a final audit determination issued by the Assistant Secretary for Elementary and Secondary Education concerning the State educational agency's (SEA's) administration of comparability requirements under Title I for the Baltimore City School District (LEA) for the period July 1, 1973, through June 30, 1978. The Assistant Secretary sustained the findings and recommendations of an audit report issued by the Department of Education's Office of Inspector General Audit Agency (OIGAA). OIGAA found that the SEA approved all Title I applications submitted by the LEA without sufficient evidence that Title I project area schools were receiving State and local resources comparable to those received by other schools in the LEA. OIGAA also found that many of the LEA's Title I schools were not comparable at any time during a given school year and that the LEA was, therefore, ineligible to participate in the Title I program.

The Assistant Secretary determined that the State should refund a total of $7,504,978 to the Department of Education. This amount represents expenditures in Title I schools found to be noncomparable during school years 1976–77 and 1977–78. A refund of Title I expenditures made at noncomparable schools during earlier years was not sought because such a claim is barred by the applicable statute of limitations. The claimed refund may be further reduced by application of this statute.

Appeal of the Commonwealth of Virginia, Docket No. 28–(93)–81

The State appealed a final audit determination issued by the Assistant Secretary for Elementary and Secondary Education which was based on an audit of the State educational agency's (SEA's) administration of comparability data under Title I. The audit was performed for the Department of Education by the Health and Human Services Audit Agency (HHSAA). HHSAA reviewed the period July 1, 1977, through June 30, 1979.

HHSAA found that the SEA funded the Title I program at the Richmond City local educational agency (LEA) without confirming that the LEA was providing State and locally supported services in all Title I project area schools that were comparable to services provided in non-Title I schools. Although the comparability reports submitted to the SEA by the LEA indicated that the LEA was providing comparable services in all Title I schools, the auditors found errors in those reports. According to recomputations made by HHSAA, ten schools were noncomparable in fiscal year (FY) 1978 and twelve schools were noncomparable during all or part of FY 1979. Because of the failure to meet comparability requirements, HHSAA recommended that the State be required to refund all Title I funds, and similar Federal funds provided under Pub. L. 81–874 section 5(e) (Impact Aid), which were expended at the schools during the periods of noncomparability. The Assistant Secretary sustained the findings and recommendations of HHSAA and seeks a refund of $1,800,898 from the State.

A number of the appeals concern the Vocational Education Act of 1963, as amended:

Appeal of the State of Michigan, Docket No. 11–(76)–81

The State appealed a cost determination made by the Assistant Secretary for Vocational and Adult Education. The cost determination was to clarify certain information provided to the State in an earlier final audit determination issued by the Assistant Secretary. The earlier final audit determination stated that the State had failed to meet its obligation to match Federal funds granted for its vocational education programs with non-Federal funds. The matching deficits were $46,299 for fiscal year (FY) 1973, $2,076 for FY 1976, and $467 for FY 1977. The Assistant Secretary requested in his final audit determination that the State refund $2,543 to the Department of Education, representing the deficits for FYs 1976 and 1977. The Assistant Secretary stated that recovery of the FY 1973 deficit might be barred by the five year statute of limitations contained in section 542(g) of the General Education Provisions Act, 20 U.S.C. 1234a(g). In his subsequent cost determination, the Assistant Secretary reinstated the audit disallowance of $46,299 for FY 1973, explaining that the applicability of the statute of limitations to this claim was an issue to be raised by the State on appeal

The State in its request for review asserts that it paid the original $2,543 claim to the Department of Education, effectively closing the audit. The State also disputes the finding that it failed to meet matching requirements for all the years in question. The Department of Education seeks a refund totaling $48,842.

Appeal of the State of Minnesota, Docket No. 13–(78)–81

The State appealed a final audit determination issued by the Assistant Secretary for Vocational and Adult Education. The determination was based on an audit of grants awarded the State under the Vocational Education Act conducted by the Department of

Health and Human Services Audit Agency (HHSAA).

The Assistant Secretary found that the State, in fiscal year (FY) 1978, paid work-study students in excess of the maximum permitted by the State Plan. He found also that, in FYs 1976–78, the State violated grant requirements by using vocation education funds for follow-up activities aimed at all high school students.

The State disputes these findings. The Department of Education requested a refund of $158,608. This claim may be reduced by application of the statute of limitations.

Appeal of the State of Rhode Island, Docket No. 17–(82)–81

The State requested review of a final audit determination of the Assistant Secretary for Vocational and Adult Education which was based on a Federal audit of grants awarded the State under the Vocational Education Act during fiscal years (FYs) 1976–78. The Assistant Secretary found that $161,780 of grant funds were not expended or obligated by the State's local educational agencies (LEAs) within the required two year period. The Assistant Secretary also directed the State to resubmit its 1978 fiscal report based on actual LEA project information.

The State appealed these determinations. The Department of Education seeks a refund of $161,780.

Appeal of the State of Louisiana, Docket No. 18–(83)–81

The State appealed a final audit determination of the Acting Assistant Secretary for Vocational and Adult Education. The final determination was based on a Federal audit of federally funded vocational education programs conducted during fiscal years 1977–79. Under the Vocational Education Act, certain grant funds were to be set aside for the vocational education of handicapped persons. the Assistant Secretary disallowed certain charges to the handicapped set-aside funds at five local educational agencies (LEAs). He found that the LEAs had used these funds to supplement their regular vocational education programs rather than to provide specific programs, services, and activies, to handicapped students.

The State disputes the determination. The Department of Education seeks a refund of $142,779.

Appeal of Minnesota State Advisory Council for Vocational Education, Docket No. 21–(86)–81

The Minnesota State Advisory Council for Vocational Education (SACVE) appealed a final audit determination issued by the Assistant Secretary for Vocational and Adult Education. The final determination was based on an audit of funds received by SACVE under the Vocational Education Act of 1963, as amended, during the period July 1, 1975, through June 30, 1979. The audit was performed by the Department of Health, Education, and Welfare Audit Agency (HEWAA).

HEWAA found that SACVE did not follow proper Federal bidding procedures in the negotiation of staff service agreements and so paid excessive amounts for clerical services. HEWAA also found the SACVE improperly claimed costs for entertainment which were unallowable under Federal and State regulation, and certain travel costs that were undocumented or unallowable under State policy.

The Assistant Secretary sustained the auditors' findings and seeks a refund of $27,807 from SACVE. This amount could be reduced by application of the statute of limitations.

The remaining appeals concern other Federal education grants administered by the U.S. Department of Education:

Appeal of Institutional Development and Economic Affairs Services, Inc. (IDEAS), Docket No. 12–(77)–81

IDEAS, a private, nonprofit educational agency in Nederland, Colorado, is the recipient of an Ethnic Heritage Studies Program (EHSP) grant for fiscal year 1982. The grant is to be used for a project entitled "The New Americans", a multi-cultural program for Indochinese immigrants. IDEAS requested review of a cost determination made by Department of Education (ED) officials in the EHSP Office and the Office of Procurement and Assistance Management. This cost determination limited IDEAS' indirect cost rate to 8 percent to the total direct costs of the project because the ED officials viewed the approved project as a "training project". Educational training projects conducted by nonprofit institutions are subject to an 8 percent ceiling on indirect costs rates by a provision in Education Department General Administrative Regulations (EDGAR).

In its appeal, IDEAS disputes that its project is essentially training and asserts that an indirect cost rate it had previously negotiated with another Federal cognizant agency should be recognized by ED officials.

Appeal of Allen University, Docket No. 19–(84)–81

Allen University, Columbia, South Carolina, appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management (OPAM). The final audit determination was based on a Federal audit of programs conducted by the University under Title III of the Higher Education Act from 1976 through 1979. OPAM found that the University did not comply with the Federal cost principles which governed the grants, and so disallowed expenditures that were unrelated to the Title III program, charges for an improperly administered faculty improvement program, undocumented charges, and charges for which there were no accounting records.

The Department seeks a refund of $675,998. The University disputes its liability for this amount.

Appeal of the University of Texas at Arlington, Docket No. 20–(85)–81

The University of Texas at Arlington appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management (OPAM) which was based on a Federal audit of three grants awarded under the Higher Education Act during 1977–1979. The grants were awarded to the University to establish and operate a Chicano Resource Center and an Education Opportunity Center. The basic purpose of the centers was to provide educational opportunities and training for public service careers. OPAM upheld the auditors' finding that the University made material revisions in the approved grants budgets without receiving prior approval by the Federal grants officer as required by applicable Federal grant regulations. Because of the improper budget revisions, OPAM disallowed certain salary and fringe benefit charges to the three grants. The Department of Education seeks a refund of $15,153, and the University disputes its liability for this amount.

Appeal of the State of Alaska, Docket No. 23–(88)–81

The State appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management which was based on a Department of Health, Education and Welfare Audit Agency audit of the State's administration of Federal

programs at its rural education attendance areas during the period July 1, 1976, through December 31, 1978. The final audit determination disallowed $14,453 in unallowable payroll and procurement costs and $614,476 undocumented costs for salaries and wages. The Department of Education seeks a total refund of $628,929. The State disputes all but $14,453 of this amount.

Appeal of Allen University, Docket No. 27–(92)–81

Allen University, Columbia, South Carolina, appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management (OPAM). The final determination was based on a Department of Health and Human Services Audit Agency (HHSAA) review of the University's financial condition and financial management practices. HHSAA reported that the University was in an untenable financial position as of June 30, 1979. The auditors found that the University improperly transferred Federal funds received from the Departmental Federal Assistance Financing System (DFAFS) from restrictive grant accounts to its general operating fund. OPAM's final audit determination held that $365,555 of the funds transferred during the period audited were from grant accounts under the cognizance of OPAM. OPAM also found that $92,231 of funds received from DFAFS under Title III of the Higher Education Act of 1965, as amended (Title III), during the period July 1, 1976, through June 30, 1977, were improperly transferred to the University's general operating fund.

OPAM directed the University to reinstate the $92,231 disallowed under Title III to its Federal cash account as an adjustment to expenditures and to submit a refund of the remaining $365,555 to the Department of Education. A total of $457,786 in Federal grant expenditures were disallowed. The University appealed the entire disallowance.

Appeal of Los Angeles Community College District, Docket No. 26–(91)–81

The Los Angeles Community College District (the District), a political subdivision of the State of California, appealed a final audit determination issued by the U.S. Department of Education's Office of Procurement and Assistance Management (OPAM). The final determination was based on a Health, Education and Welfare Audit Agency (HEWAA) review of costs charged to grants under Title VII of the Elementary and Secondary Education Act of 1965, as amended, during fiscal years (FYs) 1976 and 1970. According to the HEWAA audit report, the Title VII grants were made to East Los Angeles College (the College) which was a member of the District, to fund a bilingual crosscultural training program. The audit report notes that the College notified the Office of Education (OE), after the award of the FY 1976 grant, that the East Los Angeles College Foundation (the Foundation) was the fiscal agent for the Title VII project. OE substituted the Foundation as grantee in a modified grant notification document and later awarded a continuation Title VII grant to the Foundation for FY 1977. The audit report explains that the Foundation was a separate nonprofit organization, formed by the President of the College who intended it to be auxiliary to the College. However, it did not meet State law requirements for an auxiliary organization. Therefore the auditors found the FY 1976 Title VII funds were transferred to, and the projects performed by, an organization that was ineligible for funding under Title VII regulations.

OPAM determined that the College retained ultimate responsibility for the expenditure of the Title VII funds under these grants. The final audit determination disallowed $82,101 of FY 1976 costs and $28,651 in FY 1977 costs related to salaries, fringe benefits, travel, and supplies. OPAM also seeks a refund of an unexpended fund balance of $8,030 for FY 1976. The Department of Education seeks a total refund of $118,782 from the District for the misexpenditures of its member College. The District disputes its liability.

Appeal of Alcona Community Schools, Docket No. 25–(90)–81

Alcona Community Schools (Alcona), Lincoln, Michigan, appealed a cost determination issued by the U.S. Department of Education's (ED's) Office of Procurement and Assistance Management (OPAM). OPAM's determination followed an earlier decision by ED not to award a continuation grant for a local Follow Through project to Alcona for the grant year ending June 30, 1981, because of severe budget cutbacks in the Follow Through program. ED had informed Alcona that grant funds would be awarded to facilitate an orderly closeout of the local Follow Through project. The closeout grant was to be for a two month period, was to equal one-twelfth of Alcona's 1981 grant, and was to be awarded following Alcona's submission of a budget of necessary closeout activities. The supplemental budget submitted by Alcona was comprised of a request for $6,287 for unemployment compensation costs for staff affected by the termination of the Follow Through project. The supplemental award of $6,287 was granted.

In the cost determination at issue, OPAM withdrew the supplemental award because it found that direct charges for unemployment compensation payments to individuals are not an allowable cost item under Federal regulations governing the Follow Through program. This decision constituted a termination of the supplemental grant award.

Intervention

Section 78.43 of the final regulations establishing procedures for the Education Appeal Board provides that an interested person, group, or agency, may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the above appeals.

An application to intervene must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in, and information relevant to, the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

These applications to intervene, or questions, should be addressed to Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW. (Room 2141, FOB–6), Washington, D.C. 20202, telephone: (202) 245–7835.

(Catalog of Federal Domestic Assistance No. not applicable)

(20 U.S.C. 1234)

Dated: February 5, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82–3959 Filed 2–12–82; 8:45 am]

BILLING CODE 4000–01–M

Education Appeal Board; Appeals

AGENCY: Department of Education.

ACTION: Notice of Appeals Before the Education Appeal Board.

SUMMARY: This notice lists three appeals now before the Education Appeal Board that were previously appealed to, and pending before, the Department of Health, Education, and Welfare (HEW) Grant Appeals Board, or its successor, the Department of Health and Human Services (HHS) Grant Appeals Board.

FOR FURTHER INFORMATION CONTACT: Dr. David S. Pollen, Chairman, Education Appeal Board, 400 Maryland Avenue, SW (Room 2141, FOB–6), Washington, D.C. 20202. Telephone (202) 245–7835.

SUPPLEMENTARY INFORMATION: Under sections 451 through 454 of the General Education Provisions Act (20 U.S.C. 1234 et seq.), the Education Appeal Board has authority to conduct (1) audit appeal hearings, (2) withholding, termination, and cease and desist hearings initiated by the Secretary of Education, and (3) other proceedings designated by the Secretary as being within the jurisdiction of the Board. Final regulations governing Board jurisdiction and procedures were published in the **Federal Register** on May 18, 1981 (46 FR 27304).

This notice lists three of the appeals now before the Education Appeal Board that were previously appealed to, and pending before, the HEW Grant Appeals Board, or its successor, the HHS Grant Appeals Board. The Education Appeal Board was designated by the Secretary of Education as having jurisdiction over these appeals by regulations published in the **Federal Register** on January 5, 1981 (46 FR 881). The three appeals are:

1. Appeal of Robeson County Board of Education, Docket No. 79–61;

2. Appeal of National Urban League, Inc., Docket No. 79–90;

3. Appeal of Illinois Teachers' Retirement System and Illinois State Board of Education, Docket No. 80–97.

Intervention.

Section 78.43 of the final regulations establishing procedures for the Education Appeal Board provides that an interested person, group, or agency may, upon application to the Board Chairperson, intervene in appeals before the Education Appeal Board, including the above appeals.

An application to intervene must indicate to the satisfaction of the Board Chairperson or, as appropriate, the Panel Chairperson, that the potential intervenor has an interest in and information relevant to the specific issues raised in the appeal. If an application to intervene is approved, the intervenor becomes a party to the proceedings.

These applications or questions should be addressed to Dr. David S. Pollen, Chairman, Educational Appeal Board, 400 Maryland Avenue, SW., (Room 2141, FOB–6), Washington, D.C. 20202, telephone (202) 245–7835.

(Catalog of Federal Domestic Assistance Number not applicable)

(20 U.S.C. 1234)

Dated: February 5, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82–3960 Filed 2–12–82; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs

Civil Uses of Atomic Energy; Proposed Subsequent Arrangement Between United States and Republic of Korea

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 the Republic of Korea Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale: Contract Number S–KO–12, to the Korea Advanced Energy Research Institute, 43 grams of natural uranium as oxide, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–3964 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

Civil Uses of Atomic Energy; Proposed Subsequent Arrangement Between United States and Japan

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 Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the following sale: Contract Number S–JA–305, 3.2 grams of natural uranium for use as standard reference material by the Okayama Prefectural Research Center of Environmental and Public Health, Okayama, Japan.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–3968 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between United States and European Atomic Energy Community (EURATOM)

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.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the shipment of 4 kilograms of irradiated highly enriched uranium fuel from the ITAL research reactor, in the Netherlands to the Department of Energy Savannah River facility for reprocessing and storage.

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 arrangement for returning U.S. origin highly enriched uranium (HEU) to the U.S. is consistent with U.S. non-proliferation policy in that it serves to reduce the amount of HEU abroad.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–3965 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between The United States and European Atomic Energy Community (EURATOM)

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.

The subsequent arrangement to be carried out under the above mentioned agreement involves supply of the following nuclear materials: Contract Number S–EU–715, to the Central Bureau for Nuclear Measurements, Geel Belgium, 20 grams of uranium enriched to 75.36% in U–235, 30 grams of uranium enriched to 97.66% in U–235, and 32.5 grams of plutonium in the form of plutonium metal and plutonium sulfate. These materials are to be redistributed to various laboratories within the European Community for use as standard reference material. Nuclear Regulatory Commission export license XSNM1737 has been issued for the export of this material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–3961 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangements Between United States and European Atomic Energy Community (EURATOM)

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" 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 Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval for the following sales:

Contract Number S–EU–717, to the Commissariat A L'Energie Atomique, France, of 0.005 grams of uranium-233 for use as standard reference material.

Contract Number S–EU–718, to the Transurane-Institut Euratom, Federal Republic of Germany, 0.005 grams of plutonium-244 for use as standard reference material.

Contract Number S–JA–307, to the Nuclear Material Control Center, Tokyo, Japan, 1 gram of depleted uranium, 1 gram of uranium enriched to 3 percent in U-235, 1 gram of uranium enriched to 5.01 percent in U–235, and 6 grams of plutonium, for use as standard reference materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International, Nuclear and Non-Proliferation Policy.

[FR Doc. 82–3962 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between United States and European Atomic Energy Community (EURATOM)

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 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 agreement involves approval for the supply of 20 kilograms of uranium, containing 3.95 kilograms of U–235 (19.75% enrichment) to CERCA, France, for the production of fuel for the Reduced Enrichment Research and Test Reactor (RERTR) Program, for use in the SILOE and BR–2 test reactors, under Contract Number DE–SC05–80 LEU 0504.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than March 3, 1982.

Dated: February 9, 1982.

For the Department of Energy.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82–3963 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. GT82–21–000]

Cimarron Transmission Co.; Filing of Original Tariff Sheets

February 9, 1982.

Take notice that Cimarron Transmission Company, on February 2, 1982, tendered for filing its FERC Gas Tariff Original Volume No. 1. The filing does not constitute a change in either rates or services.

Cimarron states that in reviewing its records, it determined that its FERC Gass Tariff Original Volume No. 1 may not be set forth in the format prescribed by the Commission's regulations regarding the form and composition of tariffs on file with the Commission. Cimarron further states that this tariff filing is solely for the purpose of placing an already accepted tariff into a format consistent with the Commission's regulations. Cimarron proposes that the effective date of Original Volume No. 1 be February 2, 1982, the date of the filing of this tariff.

Copies of this filing were served upon Natural Gas Pipeline Company of America, Chevron Chemical Company and United Gas Pipe Line Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 1982. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party 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. 82-3950 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-82-003]

Columbia Gulf Transmission Co.; Proposed Change in FERC Gas Tariff

February 9, 1982.

Take notice that on January 29, 1982, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing Revised Sheet No. 1253 to its FERC Gas Tariff, Original Volume No. 2, proposed to be effective January 1, 1982.

Columbia Gulf states that Revised Sheet No. 1253 was filed to incorporate its latest rates on file with the Commission at Docket No. RP81-82.

A copy of this filing was sent to Amoco Production Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 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. 82-3948 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-281-000]

Connecticut Light and Power Co.; Filing

February 10, 1982.

Take notice that on February 3, 1982, The Connecticut Light and Power Company ("CL&P") filed a proposed amendment to the Northeast Utilities Generation And Transmission Agreement between The Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and Holyoke Power and Electric Company (collectively referred to as the "Northeast Utilities Companies"). The Northeast Utilities Generation And Transmission Agreement is also known as the "Memorandum Of Understanding—Pooling Of Generation And Transmission" and has the following rate schedule designations: CL&P Rate Schedule FPC No. 40, The Hartford Electric Light Company Rate Schedule FPC No. 35, Western Massachusetts Electric Company Rate Schedule FPC No. 52, Holyoke Water Power Company Rate Schedule FPC No. 22, and Holyoke Power and Electric Company Rate Schedule FPC No. 13.

The amendment provides for limited changes which would increase the rate of return on common equity to 16.00%, replace certain references to the NEPEX Agreement with references to the superseding NEPOOL Agreement, conform the treatment of accumulated deferred income taxes related to post-1981 facility additions to the Economic Recovery Tax Act of 1981, provide for ratable flowthrough of investment tax credits related to post-1981 facility additions and to reflect deferred income taxes accumulated after January 1, 1982, with respect to estimated costs of nuclear plant decommissioning and eliminate a factor applied to the discount and premium components in computing costs of long-term indebtedness.

CL&P states that the amendment does not change the "zero-sum" allocation of costs and benefits among the Northeast Utilities Companies provided by the Northeast Generation And Transmission Agreement.

CL&P and the other Northeast Utilities Companies propose to make the amendment effective on April 5, 1982. Alternatively, CL&P and the other Northeast Utilities Companies have requested a waiver of the Commission's notice requirements to permit the rate schedule change to become effective following a final Commission order in the event that the Commission suspends the change and orders a hearing.

Certificates of Concurrence were filed by The Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, and Holyoke Power and Electric Company.

Any person desiring to be heard or to make any protest with reference to the proposed changes to the Agreement should on or before March 1, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426 a petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3941 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-23-000 (PGA82-1, DCA82-1, IPR82-1)]

Eastern Shore Natural Gas Co.; Tariff Filing

February 9, 1982.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on February 3, 1982, tendered for filing the following revised tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff:

To Be Effective March 1, 1982

Twentieth Revised Sheet No. 5
Twentieth Revised Sheet No. 6
Fifth Revised Sheet No. 7
Twentieth Revised Sheet No. 10
Twentieth Revised Sheet No. 11
Twentieth Revised Sheet No. 12

Eastern Shore states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment, to reflect a Demand Charge Adjustment, to reflect a Deferred Gas Cost Adjustment, to report the Projected Incremental Pricing Surcharges, and to reflect a Transportation Surcharge Adjustment. This filing is being made in accordance with sections 20, 21 and 23 of Eastern Shore's FERC Gas Tariff and provisions of the Stipulation and Agreement approved by letter order issued March 27, 1981, in Docket No. RP80-84. The Purchased Gas Cost Adjustment reflects rates payable to Eastern Shore's supplier during the period March 1, 1982 through August 31, 1982.

Eastern Shore states that copies of the filing have been mailed to each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 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. 82-3951 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-41-000]

El Paso Natural Gas Co.; Petition for Waiver of Regulations Under the Natural Gas Act and Relief From Currently Effective Tariff Provisions

February 9, 1982.

Take notice that on February 3, 1982, El Paso Natural Gas Company ("El Paso") filed pursuant to § 1.7 of the Commission's Rules of Practice and Procedure for waiver of § 154.38(d)(4)(iv)(d) of the Commission's regulations Under the Natural Gas Act and for relief from § 19.7, Surcharge Adjustment, of El Paso's FERC Gas Tariff, Original Volume No. 1.

El Paso states that on July 16, 1980 the Commission issued Order No. 93 that, among other matters, promulgated final rules effective as of December 1, 1978 for Part 270, Subpart B, § 270.204 of the Commission's Regulations Under the Natural Gas Policy Act of 1978 ("NGPA"). Said § 270.204 prescribed a standard for determining the Btu content of natural gas. Order No. 93 noted that the prescribed Btu standard must be adjusted to an "as delivered" basis to properly value natural gas subject to a first sale under the NGPA. By Order No. 93-A issued April 24, 1981, the Commission denied rehearing and clarified Order No. 93.

On August 20, 1981, the Commission issued an order granting partial stay of Order Nos. 93 and 93-A, insofar as the "as delivered" Btu rule applied to the December 1, 1978 through April 23, 1981 period. Subsequently, by order issued December 24, 1981 the Commission vacated this partial stay and amended Section 270.204 of its Regulations to prescribe that the "as delivered" Btu rule is effective as of December 1, 1978. El Paso states that it must now make retroactive adjustments aggregating some $65 million to revise its purchased gas payments made to independent producers for the period retroactive to December 1, 1978 such that the NGPA maximum lawful prices for these purchases reflect payments on an "as delivered" basis as required by Order Nos. 93 and 93-A.

El Paso states that the instant petition is seeking waiver and relief to the extent necessary to permit a one-time special surcharge effective for the period April 1, 1982 through March 31, 1983 to recover approximately $65 million estimated in retroactive adjustments to be paid by El Paso to independent producers during the same twelve month period. El Paso further states that such relief will permit it to recover these costs reasonably concurrent with their determination and payment, rather than deferring such recovery for several months through the procedures of its PGA provisions. El Paso notes that, due to their magnitude, the retroactive payments will have a serious timing impact on its cash flow, absent the requested relief.

El Paso has noted that its requested relief is similar to that permitted by the Commission in Opinion No. 770-A issued at Docket No. RM79-7 that permitted a special surcharge to recover certain increased Opinion No. 770 costs and, as well, the relief permitted in Order No. 18 issued at Docket No. RM79-7 that, among other matters, established a special surcharge to recover increased costs attributable to the NGPA that occurred prior to pipeline companies first regularly scheduled 1979 PGA filing.

El Paso states it would (i) record the actual monthly accruals and recoveries attributable to retroactive adjustments to independent producers under a special Account 191 sub-account, (ii) calculate interest on the Account 191 sub-account balance monthly as required by §§ 154.38(d)(4) (c) and (d) and 154.67(d)(2)(iii) of the Regulations and (iii) file a report with the Commission on or about June 1, 1983 reflecting all information concerning the amounts actually collected by and operation of the proposed surcharge and accruals with any over or under collections to be recorded in its Account 191 balance as of June 30, 1983.

El Paso also states that copies of the instant filing have been served upon all of El Paso's interstate transmission system customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before February 19, 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. 82-3942 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-157-000]

El Paso Natural Gas Co.; Application

February 11, 1982.

Take notice that on January 15, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-157-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of natural gas on an exchange basis to Union Texas Petroleum Corporation (Union Texas) and the construction and operation of certain minor facilities necessary therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that on November 9, 1981, Applicant entered into an emergency fuel gas agreement with Union Texas pursuant to which Applicant would deliver to Union Texas at a proposed point of delivery in Upton County, Texas, such quantity of natural gas as Union Texas may need from time to time not to exceed 2,000 Mcf of gas per day for use as fuel in its Benedum plant facilities and/or associated appurtenances. It is further submitted that under such agreement Union Texas would concurrently deliver to Applicant at Applicant's existing purchase meter station at the outlet of Union Texas' Benedum plant a quantity of surplus gas equivalent on a thermal basis to the total quantities of natural gas delivered by Applicant to Union Texas.

Applicant asserts that such exchange is necessary in order that Union Texas may have a constant and reliable supply of pipeline quality natural gas available for use in the operation of its Benedum plant and, further, in order to ensure the continuity of the surplus gas supply sold by Union Texas to Applicant.

In order to effectuate the above-proposed transportation of natural gas, Applicant proposes to construct and operate a 2⅜-inch O.D. tap and valve assembly with appurtenances including a 2⅜-inch O.D. standard orifice type meter run to be located at a point on Applicant's existing 20-inch O.D. Sutton County Line, Upton County, Texas.

Applicant estimates the total cost of the proposed facilities to be $7,464 which cost would be reimbursed by Union Texas.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 3, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3943 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-36-000]

Gulf States Utilities Co.; Application

February 10, 1982.

Take notice that on February 3, 1982, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, for the issuance of not more than $100,000,000 Principal Amount of First Mortgage Bonds via negotiated placement.

Any person desiring to be heard or to make any protest with reference to the said application should on or before March 2, 1982, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3944 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-37-000]

Gulf States Utilities Co.; Application

February 10, 1982.

Take notice that on February 3, 1982, Gulf States Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking authorization to negotiate privately with respect to the issuance of not more than $75,000,000 of Notes to guaranty a like amount debentures to be issued by Gulf States Overseas Finance N.V. in the Euro-Capital Market.

Any person desiring to be heard or to make any protest with reference to the said application should on or before March 2, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3945 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-278-000]

Montana Power Co.; Agreement for Storage of Energy

February 10, 1982.

Take notice that The Montana Power Company ("Montana") on February 3, 1982, tendered for filing in accordance with Section 34 of the Commission's regulations a letter agreement between the City of Tacoma ("Tacoma") and Montana. Montana states that this letter agreement is for storage of energy in Montana's reservoirs with right of first refusal for Montana to acquire this energy if Tacoma elects not to have the storage energy returned.

Montana indicates that the proposed letter agreement would not increase its revenues. Montana states that the right of first refusal to purchase energy not returned at the indicated rates under the letter agreement was negotiated.

The effective date of January 21, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

Any person desiring to be heard or to protest said filing should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, 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 March 1, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3946 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-280-000]

Montana Power Co.; Filing

February 10, 1982.

Take notice that The Montana Power Company ("Montana") on February 3, 1982, tendered for filing in accordance with section 35 of the Commission's regulations, a Letter Agreement with San Diego Gas & Electric Company ("San Diego"). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and San Diego.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $283,748.40, based upon energy delivered from September 21, 1981 through October 31, 1981. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of September 21, 1981, is proposed and waiver of the Commission's requirements is therefore requested.

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, Northeast, 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 March 1, 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3947 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA82-7-000]

Pogo Producing Co.; Application for Staff Adjustment

Issued: February 9, 1982.

On January 21, 1982, Pogo Producing Company (Pogo), P.O. Box 2504, Houston, Texas 77001 filed an application for a staff adjustment pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3412(c) (Supp. III 1979), and § 1.41 of the Federal Energy Regulatory Commission (Commission) rules of practice and procedure.

Pogo claims special hardship, inequity or unfair distribution of burdens and irreparable injury if unable to retain interim collections made pursuant to NGPA section 102 for gas produced from Well C-8 of East Cameron Block 334 from June 24, 1981 to September 18, 1981. While separate interim collection filings has not been made for the gas produced from East Cameron Block 334 by either the operator, Pennzoil Company or by Pogo, Pogo states it believed that it was not necessary to file separately since a filing had been made on February 20, 1981 for gas produced from East Cameron Block 335 which included a platform used for producing gas from Well C-8. Pogo now requests that the Commission either confirm its authority to make interim collection for the period mentioned or that the Commission grant equitable adjustment relief from §§ 273.202 and 273.203.

The procedures applicable to the conduct of this adjustment proceeding are found in 18 CFR 1.41 (44 FR 18961, 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. All petitions to intervene must be filed on or before March 3, 1982.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3949 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-277-000]

Southern Indiana Gas & Electric Co. and Public Service Co. of Indiana, Inc.; Filing

February 10, 1982.

Take notice that Public Service Company of Indiana, Inc. (PSCI) on February 3, 1982, tendered for filing a new Interconnection Agreement, as amended, between Hoosier Energy Division of Indiana Statewide Rural Electric Cooperative, Inc., now Hoosier Energy Rural Electric Cooperative, Inc. (Hoosier), Southern Indiana Gas and Electric Company (Southern Company), and Public Service Company of Indiana, Inc. (Service Company).

PSCI states that the new agreement provides for service schedules between the parties so that transactions can occur due to the commercial operations of Hoosier's Merom Plant. The new service schedules are as follows:

(a) Unit Power: Demand charges will be computed using the annual fixed costs of the designated unit(s) divided by the rated net capability of the unit. Energy charges will be determined using 1.1 times the average production cost of the total net kilowatt hours generated by the unit during the period plus transmission charges, if applicable.

(b) Back Up Power: Demand charges will be calculated using the 13 month average of the party's production and transmission plant investment by the party's appropriate levelized fixed charge rate divided by the 12 month average system peak hour plus firm obligations. Energy will be billed at 1.10 percent of suppliers out of pocket cost.

(c) Bulk Power Transmission Use: Hoosier will compensate Service Company for the utilization of Service Company's bulk transmission system. Such use rate will be calculated each calendar year using the 13 month average of Service Company's investment in bulk transmission plant times the appropriate annual levelized fixed charge rate divided by the total Service Company's system input.

(d) Deficiency Power: Demand charges will be calculated each calendar year using the 13 month average of the party's production and transmission plant investment by the party's appropriate levelized fixed charge rate divided by the 12 month average system peak hour plus firm objectives. Energy will be at 1.25 percent of suppliers out of pocket cost.

PSCI requests an effective date of February 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Hoosier, Southern Company and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 1, 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. 82-3952 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5775-000]

White Chuck Water Co.; Application for Preliminary Permit

February 11, 1982.

Take notice that The White Chuck Water Company (Applicant) filed on December 16, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5775 to be known as the Pugh Creek Hydroelectric Project located on Pugh Creek near Darrington, within the lands of the Mt. Baker-Snoqualmie National Forest, in Snohomish County, Washington. The application is on file with the Commission and is available for public

inspection. Correspondence with the Applicant should be directed to: Mr. Keith B. Ronnholm, The White Chuck Water Company, 6233 39th Avenue, NE, Seattle, Washington 98115.

Project Description. The proposed project would consist of: (1) A 5-foot high, 40-foot long diversion structure; (2) a 48-inch diameter low pressure pipeline; (3) a steel surge tank; (4) a 1,300-foot long, 36-inch diameter penstock; (5) a powerhouse with total installed capacity of 3.0 MW; and (6) a 14-mile long transmission line from the powerhouse to an existing power line. The Applicant estimates that the average annual energy production would be 12.2 million kWh.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction.

The applicant seeks issuance of a permit for period of 24 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $125,000.

Competing Applications. This application was filed as a competing application to City of Darrington, Washington's application for Project No. 5290 filed on August 27, 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 Commissions regualtions, no competing application for preliminay permit, or notices of intent to file an application for preliminary permit, or license will be accepted for filing in response 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 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 April 1, 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. 82-3954 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5859-000]

Woods Creek, Inc.; Application for Preliminary Permit

February 11, 1982.

Take notice that Woods Creek, Incorporated (Applicant) filed on January 7, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5859 to be known as the May Creek Project located on May Creek in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Neil H. MacDonald, Project Manager, Woods Creek, Incorporated, 14 South Idaho Street, Seattle, Washington 98134.

Project Description. The proposed project would consist of: (1) Two 6-foot high diversion weirs near the outlet of Lake Isable; (2) two pipelines 24 and 36 inches in diameter, 800 and 7500 feet long respectively; (3) a powerhouse containing two generating units with a total capacity of 8600 kW and an estimated average annual energy output of 35 million kWh; and (4) a two-mile long transmission line. The proposed project will be located partially on lands under the management of the U.S. Forest Service.

Proposed Scope of Studies Under Permit. A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a 24-month preliminary permit during which time technical, economic and financial feasibility studies will be undertaken to support an application for license or exemption. The cost of the above activities is estimated to be $170,000.

Competing Applications. This application was filed as a competing application to Ken Coke's application for Project No. 5825 filed on December 28, 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 filing in response 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 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 April 1, 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. 82-3955 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5870-000]

Howard W. Bair; Application for Preliminary Permit

February 12, 1982.

Take notice that Howard W. Bair (Applicant) filed on December 23, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5870 to be known as the South Yuba Canal Project located on the South Yuba Canal in Nevada County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Howard W. Bair, 9900 Quail Hill Drive, Newcastle, California 95658.

Project Description—The proposed project would consist of: (1) a 40-foot extension of the existing 10-inch diameter iron pipe which diverts water from the existing South Yuba Canal owned by the Pacific Gas and Electric Company; (2) a powerhouse containing one generating unit rated at 70 kW; and (3) a 2,500-foot long transmission line. The average annual energy generation is estimated to be 445,000 kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct engineering, environmental, economic, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to be performed under the preliminary permit is estimated to be $15,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 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 April 23, 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 April 23, 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. 82-3926 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5825-000]

Ken Coke; Application for Preliminary Permit

February 11, 1982.

Take notice that Ken Coke (Applicant) filed on December 28, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5825 to be known as the May Creek Project located on May Creek in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Ken Coke, 6051—137th Avenue, N.E., #346, Redmond, Washington, 98052.

Project Description—The proposed project would consist of: (1) An intake structure at elevation 1856 feet; (2) a 36-inch diameter, 1400-foot long penstock; (3) a powerhouse at elevation 1350 feet containing a single generating unit with a rated capacity of 800 kW; and (4) a 1-mile long transmission line. Applicant estimates that the average annual energy production would be 5,000 Mwh. This project would be located partially on lands within the Snoqualmie National Forest.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested issuance of an 18-month preliminary permit during which time detailed studies to determine the economic, technical and environmental aspects of the project will be undertaken to support an application for exemption or minor license. The estimated cost of the studies for the project is between $55,000–$70,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 22, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

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 April 22, 1982, and should specify the type of application forthcoming. Any application for license 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).

Submission of a timely notice of intent to file an appplication for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 22, 1982.

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 April 22, 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. 82-3929 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5841-000]

The County of Sierra; Application for Preliminary Permit

February 12, 1982.

Take notice that The County of Sierra (Applicant) filed on December 31, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5841 to be known as the North Yuba River Hydroelectric Project located on North Yuba River, near Downieville, within the lands of the Sierra National Forest, in Sierra County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Tim H. Beals, Planning Director, The County of Sierra, P.O. Box 530, Downieville, California 95936.

Project Description—The proposed project would consist of: (1) A 5-foot high, 30-foot long diversion structure; (2) a 7,600-foot long, 72-inch diameter low pressure conduit; (3) a 800-foot long, 60-inch diameter penstock; (4) a powerhouse containing two generating units with total installed capacity of 7.6 MW; and (5) a 300-foot long, 12.5-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company powerline. The Applicant estimates that the average annual energy production would be 40 million kWh.

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 it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $80,000 to $140,000.

Competing Applications—This application was filed as a competing application to Mac Hydro-Power Company's application for Project No. 5020 filed on June 26, 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 filing in response 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 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 April 2, 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. 82-3927 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5754]

Falling Waters Development, Inc. IV; Application for Preliminary Permit

February 10, 1982.

Take notice that Falling Waters Development, Inc. IV (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5754 to be known as the Falling Waters Development, Inc. IV project located on Boulder Creek, near Coffee Creek, within the lands of the Shasta-Trinity National Forest in Trinity County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. E. H. Ochinero, Falling Waters Development, Inc. IV, 2811 Bechelli Lane, Redding, California 96002.

Project Description—The Proposed project would consist of: (1) A 5-foot high, 30-foot long concrete diversion structure; (2) a 4,500-foot long, 24-inch diameter conduit; (3) a 1,400-foot long, 18-inch diameter penstock; (4) a powerhouse with an installed capacity of 850 kW; and (5) a 1.5-mile long, 12-kV transmission line from the powerhouse to an existing Pacific Gas and Electric Company transmission line. The Applicant estimates that the average annual energy production would be 7.4 million kWh.

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 it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $45,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 19, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981).

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 or or before April 19, 1982, and should specify the type of application forthcoming. Any application for license 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).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 17, 1982.

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 April 19, 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. 82-3930 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5733-000]

Hydro Management, Inc.; Application for Preliminary Permit

February 10, 1982.

Take notice that Hydro Management, Inc. (Applicant) filed on December 7, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5733 to be known as the Groom Creek Water Power Project located on Groom Creek, near Polson, within the lands of the Flathead National Forest in Lake County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. W. H. Edelman III, President, Hydro Management, Inc., Route 1, Box 169, Ronan, Montana 59864.

Project Description—The project would consist of: (1) A 3-foot high, 20-foot long diversion structure; (2) a 7,600-foot long, 14-inch diameter penstock; (3) a powerhouse with an installed capacity of 376 kW; and (4) a 300-foot long, 7.2-kV transmission line from the powerhouse to an existing Pacific Power and Light Company transmission line. The Applicant estimates that the average annual energy production would be 2.274 million kWh.

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, it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $4,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 19, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

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 April 19, 1982, and should specify the type of application forthcoming. Any application for license or exemption from licensing must file in

accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 17, 1982.

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 April 19, 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. 82-3931 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No., 5847-000]

Jackson Hydro Associates; Application for Preliminary Permit

February 11, 1982.

Take notice that Jackson Hydro Associates (Applicant) filed on January 4, 1982 an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5847 to be known as the Jackson Hydropower Project located on the Jackson River near Covington, in Alleghany County, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, Jackson Hydro Associates, 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) An existing 175-foot long and 3-foot high concrete dam; (2) a small reservoir; (3) a proposed powerhouse located at the left abutment of the dam; (4) proposed transmission lines; (5) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 350 KW, and the annual energy output to be 1.3 GWh. Energy produced at the proposed project would be sold to the Virginia Electric Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested an 18-month permit to preparde a project report including preliminary designs, results of hydrological, environmental and economic feasibility studies. The cost of the above activities along with preparation of an environmental impact report, obtaining agreements with Forest Service and other Federal, State and local agencies, preparing a license application conducting final field surveys and preparing designs is estimated by the Applicant to be $36,000.

Competing Applicataions—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 21, 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 April 22, 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 April 22, 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. 82-3932 Filed 2-12-82; 8:45]

BILLING CODE 6717-01-M

[Project No. 5714-000]

Lake Hemet Municipal Water District; Application for Exemption of Small Hydroelectric Facility

February 11, 1982.

Take notice that on December 3, 1981, Lake Hemet Municipal Water District (Applicant) filed an application, under section 30 of the Federal Power Act (Act) (16 U.S.C. § 823(a)), for exemption of a proposed hydroelectric project from requirements of Part I of the Act. The proposed Oakcliff Power Station Small Conduit Hydroelectric Project (FERC Project No. 5714) would be located on the existing water supply conduit at the junction of the San Jacinto River's North and South Forks, near Hemet, Riverside County, California. Correspondence with the Applicant should be directed to: Mr. Leonard C. Hale, Lake Hemet Municipal Water District, 40988 Florida Avenue, Hemet, California 92343.

Purpose of Project—The power generated by the proposed project would be sold to the Southern California Edison Company.

Project Description—The proposed project would consist of: (1) The existing Lake Hemet Municipal Water District 21-inch diameter concrete conduit which receives water from natural springs and San Jacinto River; (2) a control valve in the conduit to divert flow; (3) a powerhouse containing one generating unit with an installed capacity of 100 kW; and (4) a 0.25-mile long power transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 0.36 million kWh.

Agency Comments—The U.S. Fish and Wildlife Service and the California State Department of Fish and Game are requested, pursuant to Section 30 of the Federal Power, to submit within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. If no comments are filed within this time period, an agency will be presumed to have determined that no terms or conditions to the exemption are necessary. Other Federal, State, and local agencies that receive this notice through direct mailing from Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. Comments are due within 45 days from the date of issuance of this notice. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. One copy of an agency's comments must also be sent to the Applicant's representatives.

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 April 1, 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. 82-3933 Filed 2-12-82; 8:45am]

BILLING CODE 6717-01-M

[Project No. 5875-000]

Thomas M. McMaster; Application for Preliminary Permit

February 11, 1982.

Take notice that Thomas M. McMaster (Applicant) filed on January 15, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5875 to be known as the Falls Creek Project located on Falls Creek, near Glacier, within the lands of the Mt. Baker National Forest, In Whatcom County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas M. McMaster, P.O. Box 1252, Mt. Vernon, Washington 98273.

Project Description—The proposed project would consist of: (1) A 5-foot high concrete diversion structure; (2) a 3,000-foot long, 18-inch diameter steel penstock; (3) a powerhouse with an installed capacity of 400 kW; and (4) a 3-mile long, 57-kV transmission line from the powerhouse to an existing Puget Sound Power & Light Company's power line. The Applicant estimates that the average annual energy production would be 2.2 million kWh.

Propose 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 24 months during which time it would conduct technical, environmental and economic studies; and prepare a FERC license application. No new roads would be required for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $75,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before April 22, 1982, the competing application itself, or a notice of intent to file such an application (see: 18 CFR $4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.)

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 April 22, 1982, and should specify the type of application forthcoming. Any application for license 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).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than June 21, 1982.

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 April 22, 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. 82-3934 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5849-000]

Millboro Hydro Associates; Application for Preliminary Permit

February 12, 1982.

Take notice that Millboro Hydro Associates (Applicant) filed on January 4, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5849 to be known as the Millboro Hydropower Project located on the Cowpasture River near Millboro Springs, in Bath County, Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Wayne L. Rogers, President, Synergics, Inc., 1444 Foxwood Court, Annapolis, Maryland 21401.

Project Description—The proposed project would consist of: (1) An existing 200-foot long and 7-foot high stone dam with an ogee spillway; (2) a small reservoir; (3) a proposed powerhouse located at the left abutment of the dam; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 250 kW, and the annual energy output to be 1.0 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to BARC.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested an 18-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soils and foundation data. The cost of the aforementioned activitites along with obtaining agreements with other Federal, State and local agencies is estimated to be $36,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before May 24, 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 April 23, 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 April 23, 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. 82-3935 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 184-002]

Pacific Gas and Electric Co. Application for Approval of Revised Exhibit R

February 12, 1982.

Take notice that an application was filed on January 4, 1982, under the Federal Power Act, 16 U.S.C. § 791(a)–825(r) by the Pacific Gas and Electric Company (PG & E), Licensee for the El Dorado Project No. 184, for approval of a revised Exhibit R. The project is located on the South Fork of the American River in the counties of El Dorado, Alpine, and Amador, California. Correspondence with the Applicant should be directed to: Mr. W. M. Gallavan, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106.

The PG & E proposes: (1) To provide a graded parking area and garbage cans for the Ferguson Point Parking Area; (2) to provide an access road, parking area, garbage cans, sanitation facilities, and picnic tables for the Sandy Cove Day Use Area; (3) to provide a parking area and garbage cans for the Sandy Cove Parking Area; (4) to provide sanitation and garbage disposal facilities for the

Caples Lake Dam Angler Access/ Trailhead; (5) to provide a parking area and garbage cans for the Caples Lake Resort Angler Access; and (6) to provide signs.

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 April 2, 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. 82-3936 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5856-000]

Public Utility District No. 1 of Jefferson County, Washington; Application for Preliminary Permit

February 12, 1982.

Take notice that Public Utility District No. 1 of Jefferson County, Washington (Applicant) filed on January 6, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r) for Project No. 5856 to be known as the Owl Creek Hydroelectric Project located on Owl Creek, near Forks, in Jefferson County, Washington. The application is on file with the Commission and is available for public inspection Correspondence with the Applicant should be directed to: Mr. J. R. Kint, Manager, Public Utility District No. 1 of Jefferson County, Jefferson County Courthouse, Port Townsend, Washington 98368.

Project Description—The proposed project would consist of: (1) A 6-foot high concrete diversion structure; (2) a 8,000-foot long pipeline; (3) a 1,000-foot long, 36-inch diameter steel penstock; (4) a powerhouse containing two generating units with total installed capacity of 1,600 kW; and (5) a 12-mile long, 25-kV transmission line from the powerhouse to an existing Clallum County PUD transmission line. The Applicant estimates that the average annual energy production would be 10.3 million kWh.

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 24 months during which time it would conduct technical, environmental and economic studies; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $100,000.

Competing Applications—This application was filed as a competing application to Twin River Resources' application for Project No. 5137 filed on July 27, 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 filing in response 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, Protest, 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 of 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 April 5, 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. 82-3928 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5757-000]

Public Utility District No. 1 of Snohomish County; Application for Preliminary Permit

February 11, 1982.

Take notice that Public Utility District No. 1 of Snohomish County (Applicant) filed on December 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)) for Project No. 5757 to be known as the Silver Creek Hydroelectric Waterpower Project located on Silver Creek, near Index, within the lands of the Snoqualmie National Forest in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William G. Hulbert, Jr., Manager, Public Utility District #1 of Snohomish

County, P.O. Box 1107, Everett, Washington 98206.

Project Description—The proposed project would consist of: (1) A 8-foot high diversion structure; (2) a 6,000-foot long pipeline; (3) a 800-foot long, 66-inch diameter steel penstock; (4) a powerhouse with total installed capacity of 3.7 MW and (5) a 8-mile long, 12-kV transmission line from the powerhouse to an existing tranmsission line. The Applicant estimates that the average annual energy production would be 13.1 million kWh.

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 it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking there studies would be $200,000.

Competing Applications—This application was filed as a competing application to Western Power, Inc.'s application for Project No. 5341 filed on September 8, 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 filing in response 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. (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 April 1, 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 als be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3937 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5742-000]

Sierra PowrQuip Associates, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

February 12, 1982.

Take notice that on December 10, 1981, Sierra PowrQuip Associates, Inc. (Applicant) filed an application under section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5742) would be located on Squaw Valley Creek, near McCloud, Siskiyou County, California. Correspondence with the Applicant should be directed to: Mr. C. Dale Spaulding, Sierra PowrQuip Associates, Inc., P.O. Box 628, McCloud, California 96057.

Project Description—The project would consist of: (1) Restoration of an existing diversion structure to a proposed 8-foot high and 40-foot long concrete diversion structure; (2) a 1000-foot long, 40-inch diameter penstock; (3) a reservoir with 0.05-acres surface area and negligible active storage; (4) a powerhouse with total installed capacity of 260 kW; and (5) a 25-foot long, 7.8-kV transmission line from powerhouse to an existing Pacific Power and Light Company line. The Applicant estimates that the average annual energy production would be 0.813 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the California State Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before April 2, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4..33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to

intervene in accordance with the requirements of its 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 April 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, 825 North Capitol Street NE., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-3938 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5773-000]

The White Chuck Water Co.; Application for Preliminary Permit

February 12, 1982.

Take notice that the White Chuck Water Company (Applicant) filed on December 16, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5773 to be known as the White Chuck River #1 Hydroelectric Project located on White Chuck River, near Darrington, within the lands of the Mt. Baker-Snoqualmie National Forest, in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Keith B. Ronnholm, The White Chuck Water Company, 6233 39th Avenue NE., Seattle, Washington 98115.

Project Description—The proposed project would consist of: (1) A 9-foot high, 180-foot long diversion structure at White Chuck River; (2) a 1.8-mile long, 72-inch diameter low pressure pipeline; (3) a 700-foot long, 60-inch penstock; (4) a powerhouse with total installed capacity of 6.0 MW to 6.6 MW; and (5) a 16-mile long transmission line from the powerhouse to an existing transmission line. An alternate scheme may include 5-foot high, 40-foot long diversion structure at Camp Creek to divert waters and combine with flows diverted from the White Chuck River. The Applicant estimates that the average annual energy production would be 29 million kWh without the Camp Creek alternative and 33 million kWh with the Camp Creek alternative.

Proposed Scope of Studies Under Permit.—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a permit for a period of 24 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $125,000.

Competing Applications.—This application was filed as a competing application to City of Darrington, Washington's application for Project No. 5289 filed on August 27, 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 filing in response to this notice. Any application for license for filing in response 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 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 April 2, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTESTS", 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. 82-3939 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5774-000]

The White Chuck Water Co.; Application for Preliminary Permit

February 11, 1982.

Take notice that The White Chuck Water Company (Applicant) filed on December 16, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791 (a)–825(r)) for Project No. 5774 to be known as the White Chuck River #2 Hydroelectric Project located on White Chuck River, near Darrington, within the lands of the Mt. Baker-Snoqualmie National Forest, in Snohomish County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Keith B. Ronnholm, The White Chuck Water Company, 6233 39th Avenue NE Seattle, Washington 98115.

Project Description—The proposed project would consist of: (1) A 9-foot high, 200-foot long diversion structure; (2) a 2.3-mile long, 84-inch diameter pipeline; (3) a steel surge tank; (4) a 700-foot long, 72-inch diameter penstock; (5)

a powerhouse with total installed capacity of 6.8 MW; and (6) a 14-mile long transmission line from the powerhouse to an existing power line. The Applicant estimates that the average annual energy production would be 33 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a permit for a period of 24 months during which time it would conduct technical, environmental and economic analysis; and prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $125,000.

Competing Applications—This application was filed as a competing application to City of Darrington, Washington's application for Project No. 5291 filed on August 27, 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 filing in response 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 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 April 1, 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. 82-3940 Filed 2-12-82; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Pick-Sloan Missouri Basin Program; Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed power rate adjustment—Pick-Sloan Missouri Basin Program.

SUMMARY: Power rates for the Pick-Sloan Missouri Basin Program (P–SMBP) were established initially in the report "Proposed Interim Rate Schedules for Missouri River Basin Project" dated March 1950. Studies have been made periodically since 1950 to test the adequacy of power rates to generate sufficient revenue to repay project investments as required. Appropriate rate adjustments have been implemented as a result of these studies.

The most recent study has been conducted on the basis of financial information available through fiscal year 1980. The power repayment study for fiscal year 1980 shows that the existing firm power rate is inadequate to pay the costs allocated and assigned to the power function within allowable time periods. This assessment is based upon consideration of projected operation and maintenance costs, additional power system investment, the scheduled irrigation investments and their attendant depletions, other depletions, and required repayments all compared against the projected revenues which will be produced by firm power, replacement, seasonal peaking, maintenance and other power sales, and other revenues. Projected revenues are not adequate to cover projected costs, and adjustments of the firm power rates is necessary. An overall composite yield of 6.10 mills/kWh is required for the Pick-Sloan Missouri Basin Program resulting in an additional yield of 0.65 mills/kWh over the rate required at the time the present rates were developed. As a means of obtaining the composite P–SMBP required yield, the following firm power rates are proposed for the Eastern and Western Divisions:

Class of power	Present rate	Proposed rate
Eastern Division		
Firm Power (kW)	$1.20/kW-month	$1.35/kW-month.
Firm Energy (kWh) up through 60 pct monthly load factor	3.17 mills/kWh	3.62 mills/kWh.
Above 60 pct monthly load factor	5.18 mills/kWh	7.00 mills/kWh.
Peaking Power (kW)	$7.20/kW-season	$8.10/kW-season.
Peaking Energy (kWh)	3.33 mills/kWh	3.62 mills/kWh.
Seasonal Firm	Same as firm power rate	
Maintenance Energy	10.0 mills/kWh	12.0 mills/kWh.
Western Division		
Firm Power (kW)	$1.34/kW	$1.43/kW.
Firm Energy (kWh)	4.0 mills/kWh	4.3 mills/kWh.
Peaking Power (kW)	$1.34/kW [1]	$1.43/kW [1].
Transmission Charge	1.0 mill/kWh	1.1 mills kWh or $9.60/kW year.

[1] The rate is per kW of the effective contract rate of delivery (CROD) or the maximum amount scheduled for the billing period, whichever is greater.

A brochure will be distributed to all P–SMBP customers and other interested parties; and public information and comment forums will be held in accorance with the current procedures for public participation in general rate adjustments. The brochure will explain the need for the rate increases. After public discussions and review of public comments, Western Area Power Administration (Western) will finalize the proposed rates.

DATES: The consultation and comment period will begin with publication of this notice in the **Federal Register** (February 16, 1982) and will end not less than 90 days thereafter (May 17, 1982). The proposed rates are expected to go into

effect on an interim basis during the July or August billing period of 1982.

Public information forums at which Western will explain the need for an increase, review alternatives, and answer questions will be held at the following places and times:

March 1, 1982–11 a.m.—The Holiday Inn, Northglenn, Colorado
March 2, 1982–9 a.m.—The Airport Holiday Inn, Sioux Falls, South Dakota
March 3, 1982–9 a.m.—The Holiday Inn, Fargo, North Dakota
March 4, 1982–9 a.m.—The Sheraton Hotel, Billings, Montana

Public comment forums at which the public may comment on the proposed rate increase will be conducted at the following places and times:

April 5, 1982—1 p.m.—The Holiday Inn, Northglenn, Colorado
April 6, 1982—9 a.m.—The Airport Holiday Inn, Sioux Falls, South Dakota
April 7, 1982—9 a.m.—The Holiday Inn, Fargo, North Dakota
April 8, 1982—9 a.m.—The Sheraton Hotel, Billings, Montana

Persons planning to speak at the comment forums should send their names and affiliation to the address noted below by March 19, 1982, so that a speaker list may be developed. Other persons will be allowed to comment at the comment forums. Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101.

Written comments may be submitted to the above address throughout the consultation and comment period.

SUPPLEMENTARY INFORMATION: Power rates for the P–SMBP are established pursuant to the Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101, *et seq.*); the Reclamation Act of 1902 (43 U.S.C. 372, *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); and the acts specifically applicable to the project or system involved.

The Secretary of Energy delegated to the Assistant Secretary for Resource Applications, by Delegation Order No. 0104–33 (43 FR 60636, December 28, 1978), the authority to develop, acting by and through the Administrator of Western and to confirm, approve, and place in effect on an interim basis, power and transmission rates for Western. The delegation order also gave the Federal Energy Regulatory Commission the authority to make a final decision either confirming and approving, disapproving, or remanding such rates. On March 19, 1981, Delegation Order No. 0204–33 was amended by substituting the "Assistant Secretary for Conservation and Renewable Energy" for the "Assistant Secretary for Resource Applications" (46 FR 254426, May 7, 1981).

Procedures for public participation in rate adjustments for power marketed by Western are found at 10 CFR part 903.

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for the P–SMBP relates to nonregulatory services provided by Western at a particular rate.

Under 5 U.S.C. 601(2), rates or services of particular applicability are not considered "rules" within the meaning of the Act. Since the rate for P–SMBP power is of limited applicability and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 (NEPA) and Department of Energy (DOE) regulations published in the **Federal Register** on March 28, 1980 (45 FR 20694–20701), Western conducts an environmental evaluation of proposed rate adjustments.

Section D of the above guidelines states that for rate adjustments for power marketing administrations, the level of documentation under NEPA depends on the magnitude of the rate increase as it relates to the rate of inflation since the last rate adjustment. If, as in the case of this proposed increase, it does not exceed the rate of inflation since the last rate adjustment, no further NEPA documentation is required. In such cases a memorandum is prepared explaining the basis for that determination and an administrative determination is made that no further documentation under NEPA is required.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 4 CFR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

Issued at Golden, Colorado, February 5, 1982.

Robert L. McPhail,

Administrator.

[FR Doc. 82–3967 Filed 2–12–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[TSH–FRL–2042–7; OPTS–59075C]

Polymer of Aromatic and Aliphatic Diacids and Aliphatic Diol; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM–81–54) under section 5 of the Toxic Substances Control Act (TSCA) on December 29, 1981. Notice of receipt of the application was published in the **Federal Register** of January 13, 1982 (47 FR 1416). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Ehrensberger, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–210, 401 M St., SW., Washington, D.C. 20460, (202–382–3745).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing

purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk to injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 29, 1981, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–81–54. The manufacturer, Ashland Chemical Company of Columbus, Ohio, has claimed the specific chemical identity, and the specific use of the new substance as confidential business information. The generic name provided for the new substance is polymer of aromatic and aliphatic diacids and aliphatic diol. Its use will be to form a cured, cross-linked, protective and decorative coating for commercial articles. A maximum of 30,000 pounds will be manufactured for text marketing purposes, during a period not to exced 180 days. The substance will be manufactured in a closed system; operators will be exposed to the substance only during sampling for control purposes and drumming of the mixture. An unknown number of workers will be exposed to the mixture during application until it is cured to form a protective coating. No consumer exposure is expected because the PMN substance will be cross-linked to a solid material. A notice published in the **Federal Register** of January 13, 1982 (47 FR 1416) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–81–54, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. No significant health concerns were identified for the TME substance. The substance has a high molecular weight and is not soluble in water. No significant environmental concerns were identified and environmental release will be low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to customers and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 30,000 pounds described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a period of 180 days commencing on the date of signature of this notice by the Administrator.

6. The exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–3988 Filed 2–12–82; 8:45 am]

BILLING CODE 6560–31–M

[TSH–FRL–2042–6; OPTS–59075B]

Polymers of Diphenylmethane Diisocyanate and Hydroxy Alkyl Ethers; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received applications for test marketing exemptions (TM–81–52 and TM–81–53) under section 5 of the Toxic Substances Control Act (TSCA) on December 29, 1981. Notice of receipt of the applications was published in the **Federal Register** of January 13, 1982 (47 FR 1416). EPA has granted the exemptions.

EFFECTIVE DATE: These exemptions are effective on February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St., SW., Washington, DC 20460, (202–382–3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defined the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk or injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Fedeal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 29, 1981, EPA received two applications from Mobay Chemical Corporation for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to import two new chemical substances for test marketing purposes. The applications were assigned test marketing exemption numbers TM–81–52 and TM–81–53. The importer claimed the specific identities of the new substances as confidential business information. The generic name of both the new substances is polymer of diphenylmethane diisocyanate and hydroxy alkyl ethers and they will be used as a component and a coating of a synthetic running surface. For TM–82–52 a maximum of 10,000 kilograms (kg) will be imported for test market purposes and for TM–81–53, a maximum of 25,000 kg, during a test marketing period not to exceed 6 months. The laying of one track of which TM–81–53 is a component

will involve a crew of 10 workers, who have a potential exposure for 10 hours/day for up to 10 days. The coating (TM–81–52) of the track will involve a crew of 10 workers, who will have a potential exposure for 10 hours/day for up to 2 days. A notice published in the Federal Register of January 13, 1982 (47 FR 1416) announced receipt of these applications and requested comment on the appropriateness of granting the exemptions. The Agency did not receive any comments concerning the applications.

EPA has established that the test marketing of the substances described in TM–81–52 and TM–81–53 under the conditions set out in the applications, will not present any unreasonable risk of injury to health or the environment for the reasons explained below.

No significant health concerns exist for the test market substances *per se* because of their high molecular weight. However, health concerns exist for any unreacted diisocyanate monomers contained in the test market substances, including skin and eye irritation and dermal sensitization. In addition, methylene dianiline (MDA), a potential carcinogen may be formed if the diisocyanate is degraded in water. Workers are potentialy exposed only when laying and coating the running track. These health concerns are mitigated by proper handling of the test market substances at this time. Workers must take protective measures as specified in the test market applications. These include wearing gloves, goggles, and protective clothing. If the track is laid under certain conditions of stagnant air or temperatures over 40°C, the unreacted diisocyanate monomers could volatilize, and fresh air respirators must be worn. If the TME substances are sprayed, respirators must also be used. All unreacted isocyanates and/or MDA will be reacted in the curing process. Once cured the components become part of the article and are not available for exposure or release. No significant environmental concerns for the test market substances were identified. Release to the air will be very low. No other intentional release is foreseen.

These test marketing exemptions are granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption applications and, in particular, those enumerated below.

1. These exemptions are granted solely to this importer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customer specified in the applications, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substances during the test marketing period must state that the use of the substances is restricted to that described to EPA in the test marketing exemption applications.

4. The production volume of the new substances may not exceed the quantity of 10,000 kg (TM–81–52) and 25,000 kg (TM–81–53) described in the test marketing exemption applications.

5. The test marketing activity approved in this notice is limited to a 6-month period commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the applications and the exposure levels and duration of exposure should not exceed those specified. Workers must wear protective equipment specified in the applications.

The Agency reserves the right to rescind its decision to grant these exemptions should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of these substances under the conditions specified in the applications will not present an unreasonable risk of injury to human health or the environment.

Dated: February 4, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–3989 Filed 2–12–82; 8:45 am]

BILLING CODE 6560–31–M

[TSH–FRL 2042–8; OPTS–59076A]

Polysulfide Polymer With Formal And Alcohol Moiety; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM–81–55) under section 5 of the Toxic Substances Control Act (TSCA) on December 30, 1981. Notice of receipt of the application was published in the Federal Register of January 13, 1982 (47 FR 1415). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on February 4, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–206, 401 M St., SW., Washington, DC 20460, (202–382–3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances complied by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any aplicable requirements of section 5(b). Section 5(d)(1) defines that contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(H)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the Federal Register. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On December 30, 1981, EPA received an application from Thiokol Corporation for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM–81–55. The manufacturer claimed the specific chemical identity of the new substance as confidential business information. The generic name of the new substance is polysulfide polymer with formal and alcohol moiety and it will be used as synthetic rubber in printing rollers and paint spray hose liners. A maximum of 5,000 kilograms (kg) will be manufactured for test market purposes, during a test marketing period not to exceed 3 months. During manufacture, six workers may be exposed for 8 hours/day for 7 days. A notice published in the Federal Register of January 13, 1982 (47 FR 1415) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency did

not receive any comments concerning the application.

EPA has established that the test marketing of the substance described in TM–81–55, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. No significant health concerns were identified for the TME substance. The substance has a high molecular weight and is not soluble in water. The final use of the substance will involve a restricted and minimal exposure to consumers as part of an article. No significant environmental concerns were identified and environmental release of the substance will be low.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemptin application and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the customers specified in the application, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 5,000 kg described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a 3-month period commencing the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application and the exposure levels and duration of exposure should not exceed those specified.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusion that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: Feburary 4, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-3987 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-31-M

[WEN-FRL-2052-6]

Approval of Virginia's NPDES Program To Regulate Federal Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the State of Virginia's request for authority to administer the National Pollutant Discharge Elimination System (NPDES) program with respect to Federal facilities.

SUMMARY: On February 9, 1982, the Environmental Protection Agency (EPA) approved the State of Virginia's request to include regulation of Federal facilities under its State water pollution permit program responsibility. Previously the State had been approved to participate in the NPDES program.

FOR FURTHER INFORMATION CONTACT: Allen J. Danzig, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, 202–755–0750.

SUPPLEMENTARY INFORMATION: In 1977 Congress amended section 313 of the Clean Water Act (33 U.S.C. 1251, et seq.) to authorize States to regulate federally owned or operated facilities under their water pollution control programs. Prior to the amendments, States, including those authorized pursuant to section 402(b) of the Clean Water Act to participate in the NPDES program, were precluded from regulating Federal facilities. Therefore, EPA in approving State programs under section 402(b), reserved the authority to issue NPDES permits to Federal facilities.

With the passage of the 1977 amendments, EPA has been transferring NPDES authority over Federal facilities to approved states. Today's **Federal Register** notice is to announce the approval of the State of Virginia's request to assume NPDES authority over Federal facilities. EPA received only one comment during the public comment period which requested a copy of the proposed Memorandum of Understanding (MOU) between EPA and Virginia, a part of the State's submission to EPA.

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. The approval of the Virginia NPDES permit program to administer Federal facilities merely transfers responsibility for administration of these facilities from the Federal to the State government. No new substantive requirements are established by this action. Therefore, this notice does not have a significant impact on a substantial number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis.

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

Dated: February 9, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

[FR Doc. 82-3986 Filed 2-12-82; 8:45 am]

BILLING CODE 6560-33-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-150]

Broward Federal Savings and Loan Association of Sunrise, Fla.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on December 18, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 81–808 approved the application of Broward Federal Savings and Loan Association of Sunrise, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4039 Filed 2-12-82; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-149]

Cleveland Savings and Loan Association, Shelby, N.C.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on

December 9, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 81–755 approved the application of Cleveland Savings and Loan Association, Shelby, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–4040 Filed 2–12–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–151]

First Federal Savings and Loan Association of Catawba County, Conover, N.C.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 6, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–1 approved the application of First Federal Savings and Loan Association of Catawba County, Conover, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, DC. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–4038 Filed 2–12–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–153]

First Federal Savings and Loan Association of Claremore, Claremore, Okla.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 28, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–51 approved the application of First Federal Savings and Loan Association, of Claremore, Claremore, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–4036 Filed 2–12–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–154]

First Federal Savings and Loan Association of LaFollette, LaFollette, Tenn.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 28, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–55 approved the application of First Federal Savings and Loan Association of LaFollette, LaFollette, Tennessee, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Cincinnati, 2500 DuBois Tower, Cincinnati, Ohio 45201.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–4035 Filed 2–12–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–156]

Home Federal Savings and Loan Association of Deming, Deming, N.C.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on February 2, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–69 approved the application of Home Federal Savings and Loan Association, of Deming, Deming, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, P.O. Box 56527, Peachtree Center Station, Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–4033 Filed 2–12–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–155]

Homestead Savings and Loan Association, Woodward, Okla.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 28, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–56 approved the application of Homestead Savings and Loan Association, Woodward, Oklahoma, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–4034 Filed 2–12–82; 8:45 am]

BILLING CODE 6720–01–M

[No. AC–152]

Santa Clara Savings and Loan Association, Santa Clara, Calif.; Final Action Approval of Conversion Applications

Dated: February 10, 1982.

Notice is hereby given that on January 22, 1982, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 82–41 approved the application of Santa Clara Savings and Loan Association, Santa

Clara, California, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-4037 Filed 2-12-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Application solicitation.

SUMMARY: A total of six comments were received by FMCS in response to the request for public comment published in the December 11, 1981 issue of the **Federal Register.** Of the negative comments received, most criticized the use of Federal funds to support in-plant labor-management committees as well as the fact that grant funds were restricted to plants at which a collective bargaining agreement was in place. The criticism of in-plant funding support is academic for Fiscal Year 1982, however, as the reduction in available funding to $500,000 will limit competitive funding consideration to only areawide committees. The following application solicitation/program announcement contains the basic guidelines for funding the Fiscal Year 1982 cycle of the Labor-Management Cooperation Program.

DATE: Applications must be postmarked no later than April 30, 1982.

ADDRESS: Send an original application plus three copies to: Peter L. Regner, Director, Labor-Management Grant Programs, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202/653-5320.

SUPPLEMENTARY INFORMATION:

A. Introduction

The following is the final announcement for the Fiscal Year 1982 cycle of the Labor-Management Cooperation Program. These guidelines represent the second year of efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor Management Cooperation Act of 1978 which was aproved in October 1978.

The Act generally authorized FMCS to:

> [P]rovide assistance in the establishment and operation of plant, area, and industrywide labor and management committees which—
>
> (A) have been organized jointly by employers and labor organizations representing employees in that plant, area, or industry; and
>
> (B) are established for the purpose of improving labor management relationships, job security, organizational effectiveness, enhancing economic development or involving workers in decisions affecting their jobs including improving communication with respect to subjects of mutual interest and concern.

The Act also prohibited FMCS from awarding any grants or contracts under the following three circumstances:

(1) No assistance can be given for plant labor-management committees unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement;

(2) No assistance can be given for an area or industrywide labor-management committee unless its participants include any labor organizations certified or recognized as the representative of the employees of an employer participating in such a committee. However, employers whose employees are not represented by a labor organization may participate on such area or industrywide committees; and

(3) No assistance can be given to any committee which FMCS finds to have as one of its purposes the discouragement of the exercise of rights contained in section 7 of the National Labor Relations Act (29 U.S.C. 157) or the interference with collective bargaining in any plant or industry.

With respect to item (2) above, applicants for area or industrywide grants should offer committee memberships to every labor organization having a collective bargaining contract with any employer participating on the committee. Any labor organization so desiring may voluntarily elect not to participate on the Committee. Documentation of all this (i.e., the listing of each participating employer and corresponding labor organizations and written declinations by those labor organizations not electing to participate on the committee) should be included as part of the application.

The Program Description and other sections that follow as well as a separately published FMCS Financial and Administrative Grants Manual make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, areawide, or industrywide labor-management committee. Directions for obtaining an application kit may be found in Section F.

B. Program Description

Objectives

The Labor Management Cooperation Act of 1978 identified the following seven general areas for which financial assistance would be appropriate:

(1) To improve communications between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance to the formation and operation of labor-management committees.

The primary objective of this program is to provide financial assistance for the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria and conform to the restrictions mentioned in Section A (Introduction). As discussed in the legislation, these committees may be found at either the plant, area, or industry levels. A plant committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multi-county, or statewide

jurisdictions. An industry committee generally consists of a collection of productive enterprises and related labor unions producing a common product or service either on a local, state, regional, or nationwide level. In FY82, competition will be limited to area committees only.

In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

Required Program Elements

1. *Problem Statement.*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the area and workforce that will be addressed by the committee. Applicants must document the problems using as much relevant data as possible and discuss the full range of impacts these problems could have or are having on the area. An industrial or economic profile of the area and workforce might prove useful in explaining the problems. This section basically discusses WHY the effort is needed.

2. *Results or Benefits Expected.*—By using specific goals and objectives, the applicant must discuss in detail WHAT the labor-management committee will accomplish during the life of the grant. While a goal of "improving communication between employers and employees" may suffice as one overall goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have on the area. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach.*—This section of the application specifies HOW the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all proposed members of the labor-management committee. Be sure to identify the chairperson(s) and the role he/she will play. The application should also offer a rationale for the selection of the committee members (e.g.m members represent 70% of the area workforce).

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 6 months prior to the submission deadline), a discussion of the past efforts and accomplishments and how they would integrate with the proposed future expanded effort.

4. *Major Milestones.*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for WHEN they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation.*—Applicants are allowed the option of contracting for external evaluations or conducting their own evaluation. Applicants may expend up to $7,000 for an outside evaluation. In either case, an evaluation plan must be discussed in this section.

The evaluation plan should discuss what basic questions or issues the proposed evaluator would examine and what baseline data the committee staff would already have/or will gather for the evaluator. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment.*—Applications must include letters of commitment from all proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and are willing to personally attend scheduled committee meetings.

7. *Other Requirements.*—Applicants are also responsible for the following:

(a) The submission of data indicating how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels and breakout of annual operating costs;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address;

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts;

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. For plant committees, the degree of innovation will receive special consideration;

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application;

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates;

(6) The feasibility and thoroughness of planning on how to best evaluate the project's impacts, including major evaluation topics and necessary data elements; and

(7) The cost effectiveness and fiscal soundness of the application's budget request as well as the application's fiscal feasibility vs. its goals and approach.

(8) The cost value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978.

B. Eligibility

Eligible grantees include State and local units of government, private non-profit labor-management committees, and certain third party private non-profit entities.

Third party private non-profit entities who can document that a major purpose or function of their organization has been the improvement of labor relations are also eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under

Part B must be followed. Applications from third-party entities must document strong support and participation from all labor and management parties with whom the applicant will be working.

In the event two or more applications are received which compete under the same category from the same jurisdiction (e.g., two areawide applications from the same county), only the higher scoring application will be awarded (if both are ranked acceptable for funding and funds are available).

C. Allocations

For Fiscal Year 1982, FMCS apparently will operate under a Continuing Resolution which allocates $500,000 for the Labor-Management Cooperation Program. The funding will be distributed as follows: $350,000 will be allocated for an areawide committee application competition; up to $100,000 will be set aside for an acceptable application for a construction industry committee in the New York Metropolitan area (as prescribed in the Senate appropriations language), and $50,000 will be reserved for the administration of a national labor-management conference in cooperation with the National Association of Area Labor-Management Committees.

D. Dollar Range and Length of Grants and Continuation Policy

Awards to continue or expand existing labor-management committees (i.e., in existence at least 6 months prior to the submission deadline) shall be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 12 months. The total project period will thus normally be no more than 24 months.

Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 6 months prior to the submission deadline), shall be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 18 months. The total project period will thus normally be no more than 36 months.

The dollar range of awards is as follows:

Area—up to $75,000 per annum or $100,000 per 18-month period.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and grantee match, applicants may supplement these funds through voluntary contributions from other sources.

E. Match Requirements and Cost Allowability

In Fiscal Year 1982, applicants for labor-management committees must provide at least 10 percent of the total allowable project costs. This 10 percent match must be in cash rather than in-kind goods or services. Matching funds may come from state or local government sources or private sector sources, but may generally not include other Federal funds. No matching funds are required for the national labor-management conference grant.

It shall also be the policy of this program to reject all requests for indirect or overhead costs. In addition, grant funds must not be used to supplant private or local/state government funds previously made available for these purposes. Also, under no circumstances will management staff or employees participating on a labor-management committee be paid or otherwise compensated out of grant funds for time spent at committee meetings or training sessions.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FMCS Financial and Administrative Grants Manual which will be included in the application kit.

F. Application Submission and Review Process

Applicants for area committees wishing to submit a draft or pre-application for informal review and comment by the grants program staff may submit pre-applications anytime up to February 28, 1982. FMCS staff will provide brief and general comments as to possible application deficiencies. The pages or pre- and final applications should be numbered.

Final applications must be postmarked no later than April 30, 1982. No applications or supplementary materials can be accepted after the deadline. An original application plus three copies should be addressed to the Federal Mediation and Conciliation Service, Division of Labor-Management Grant Programs, 2100 K Street, N.W., Washington, D.C. 20427.

After the deadline has passed, all eligible applications will be reviewed and scored by an FMCS Grant Review Board. The Assistant Director of the Office of Policy and Resource Management, Labor-Management Grant Programs, will finalize the scoring and recommend which applications will be placed in which one of the following three categories: (a) Unacceptable for funding, (b) potentially acceptable for funding but funds are unavailable, and (c) recommended for funding. The final decision on funding and responsibility for award will rest with the Director of the Office of Policy and Resource Management.

All Fiscal Year 1982 grant awards are expected to be made within 90 days of the application submission deadline. Applications submitted after the deadline dates or that fail to adhere to eligibility or other major requirements will be administratively rejected prior to the convening of the Grant Review Board.

G. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or clarification, can be obtained by contacting Peter L. Regner, Federal Mediation and Conciliation Service, Division of Labor-Management Grant Programs, 2100 K Street, N.W., Washington, D.C. 20427, or calling 202/653–5320.

Kenneth E. Moffett,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 82–3977 Filed 2–12–82; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue

concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than March 10, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation,* New York, New York (consumer commercial and mortgage lending, servicing activities, credit life, accident and health insurance brokerage activities, and retail sale of travelers checks; Florida): To make or acquire, for its own account and for the account of others, loans and other extensions of credit, both secured and unsecured, including but not limited to, consumer and business lines of credit, installment loans for personal, household and business purposes and mortgage loans for personal, household and business purposes and mortgage loans secured by real property; to service loans and other extensions of credit; to sell travelers checks at retail; to act as insurance agent or broker for credit life insurance and credit accident and health insurance directly related to such lending and servicing activities. These activities will be conducted by a subsidiary, Chase Manhattan Financial Services, Inc., from an office in Orlando, Florida, serving the State of Florida.

2. *Citicorp,* New York, New York (financing activities, Texas): To engage, through its subsidiary, Citicorp Acceptance Company, Inc. (Delaware), in the extension of loans to individuals and businesses to finance the purchase of mobile homes, modular units, or related manufactured housing together with the real property upon which such units will be situated. These activities will be conducted from an office in Houston, Texas, serving the State of Texas. Comments on this application must be received not later than March 1, 1982.

B. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

First Ohio Bancshares Inc., Toledo, Ohio (underwriting credit related life, accident, and health insurance; Ohio): To engage through a wholly-owned subsidiary, First Ohio Life Insurance Company, Phoenix, Arizona, in underwriting as reinsurer credit life, accident, and health insurance sold in connection with extensions of credit by its lending subsidiary, First National Bank of Toledo, Toledo, Ohio. These activities will be conducted at 1421 E. Thomas Road, Phoenix, Arizona, and will serve Lucas, Wood, Fulton, and Henry counties in Ohio.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

Dominion Bankshares Corporation, Roanoke, Virginia (insurance activities; Northern Virginia): To engage, through its subsidary, Dominion Bankshares Services, Inc., in the activity of acting as insurance agent or broker with respect to credit life insurance, credit accident and health insurance, credit disability insurance, and nonconvertible time life insurance, related to or arising out of loans made or credit transactions involving Dominion Mortgage Corporation, a subsidiary of Applicant. These activities would be conducted from an office in Fredericksburg, Virginia, serving the City of Fredericksburg and Caroline, Culpeper, King George, Spotsylvania, and Stafford Counties, Virginia.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (financing, leasing, and servicing activities; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): To engage through its subsidiary, Security Pacific Leasing Corporation, in financing, leasing and servicing activities with respect to personal property and equipment and real property. These activities would be conducted from an office of Security Pacific Leasing Corporation in Boston, Massachusetts, serving the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

E. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3922 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

Country Bancshares, Inc.; Formation of Bank Holding Company

Country Bancshares, Inc., Hull, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of State Bank of Hull, Hull, Illinois. The factors that are considered in acting on the application are set forth in section (3)(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3915 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

DCB Corp.; Formation of Bank Holding Company

DCB Corporation, Jasper, Indiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of Dubois County Bank, Jasper, Indiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(2)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 3, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3916 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

FNB Bancorp, Inc. Formation of Bank Holding Company

FNB Bancorp, Inc., Glasgow, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to The New Farmers National Bank of Glasgow, Glasgow, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3917 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

First Harvey Banc Corp.; Formation of Bank Holding Company

First Harvey Banc Corporation, River Forest, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank In Harvey, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 8, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically and questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3918 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

Groos Bancshares, Inc.; Formation of Bank Holding Company

Groos Bancshares, Inc., San Antonio, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of the Groos National Bank of San Antonio, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3919 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

James Madison, Ltd.; Proposed Acquisition of A. E. Landvoigt, Inc.

James Madison, Limited, Washington, D.C., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire through its wholly-owned subsidiary, A.E.L., Inc., voting shares of A. E. Landvoigt, Inc., Fairfax, Virginia.

Applicant states that the proposed subsidiary would engage in the activities of originating and servicing residential loans secured by real estate. These activities would be performed from offices of Applicant's subsidiary in Fairfax, Virginia, Suitland, Maryland; and Charlottesville, Virginia, and the geographic areas to be served are those areas within a fifty mile radius of one of the above offices. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than March 8, 1982.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3920 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

Western National Bancorp; Formation of Bank Holding Company

Western National Bancorp, Santa Ana, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Western National Bank, Santa Ana, California. The factors that are

considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than March 10, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, February 9, 1982.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 82-3921 Filed 2-12-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Safety Recommendations for the Fabricated Structural Metal Industry; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and will be open to the public for observation and participation, limited only by space available:

Safety Recommendations for the Fabricated Structural Metal Industry

Date: March 3, 1982
Time: 9:00 a.m. to 4:00 p.m.
Place: Dynamac Building, 6th Floor Conference Room, 11140 Rockville Pike, Rockville, Maryland
Purpose: To discuss recommendations being developed to reduce worker exposure to safety hazards, as well as general industrial hazards associated with the fabrication of structural metal products.
Additional information may be obtained from: Ms. Rebecca S. Simons, Division of Safety Research, National Institute for Occupational Safety and Health, Centers for Disease Control, 944 Chestnut Ridge Road, Morgantown, WV 26505 (304) 599-7574 or FTS 923-7574.

Dated: February 5, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-4001 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Advisory Committee; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel

Date, time, and place. March 25 and 26, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and executive secretary. Open public hearing, March 25, 9 a.m.; to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, March 26, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; Dr. George C. Murray, Bureau of Medical Devices (HFK-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the executive secretary before March 12, 1982, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addressses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On March 25 the committee will discuss premarket approval applications (PMA's) and statistical/epidemiological, questions pertaining to intraocular lenses (IOL's), and may discuss PMA's for other ophthalmic products. If discussion of all pertinent IOL issues is not completed, discussion will be continued the following day. On March 26 the committee may discuss PMA's or general issues (including guideline and matrix revisions) relating to contact lens products.

Closed committee deliberations. On March 25 and 26 the committee will conduct reviews of PMA's for intraocular lenses (IOL's) applications. These portions of the meeting will be closed to permit discussion of trade secret data (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committes shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets

Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

Section 10.210 (21 CFR 10.210) of FDA's procedural regulations requires FDA to give notice of the availability of reimbursement for participation and certain FDA proceedings including advisory committe meetings. However, on November 27, 1981, the United States Court of Appeals for the Fourth Circuit held that FDA does not have authority to reimburse public participants in its administrative proceedings. *Pacific Legal Foundation* v. *Goyan*, No. 80–1854 (4th Cir. November 27, 1981). Accordingly, reimbursement will not be available for participation in the proceedings described in this notice.

Dated: February 8, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82–3924 Filed 2–12–82; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings: Kansas City District Office, Chaired by James A. Adamson, District Director.

DATE: Thursday, February 25, 1982, 10 a.m. to 12 m.

ADDRESS: Downtown Omaha Center for Seniors, Paxton Manor, 14th and Farnam Sts., Omaha, NE 68102.

FOR FURTHER INFORMATION CONTACT: Tywanna G. Paul, Consumer Affairs Officer, Food and Drug Administration, 1619 Howard St., Omaha, NE 68102, 402–221–4675.

St. Louis Station, Chaired by Ronald M. Johnson, Station Chief.

DATE: Sunday, February 28, 1982, 2 p.m. to 4 p.m.

ADDRESS: Southeastern Community College, Northwest Campus, Rm. 121, Administration Bldg., Highway 406, Gear Ave., West Burlington, IA 52655.

FOR FURTHER INFORMATION CONTACT: Mary-Margaret Richardson, Consumer Affairs Officer, St. Louis Station, Food and Drug Administration, 808 N. Collins St., St. Louis, MO 63102, 314–425–5021.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 8, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–3925 Filed 2–10–82; 12:43 pm]

BILLING CODE 4160–01–M

Health Professional Organization Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming meeting with health professional organizations to be chaired by Arthur Hull Hayes, Jr., M.D., Commissioner of Food and Drugs.

DATE: The meeting will be held at 2:30 p.m., Friday, February 26, 1982.

ADDRESS: The meeting will be held at the Howard University College of Medicine, Rm. 3019, 520 W St. NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Audrey L. Wood, Office of Health Affairs (HFY–4), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5470.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drug meets periodically with executives of the health professional organizations to share mutual concerns and facilitate dissemination of FDA proposals and decisions affecting the country's health care. The agenda items for discussion at the meeting include updates of key agency issues; a presentation by the American Medical Association of their patient information system; and the role of health organizations in sodium education by the American Heart Association and the American College of Cardiology.

Dated: February 9, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–3923 Filed 2–10–82; 12:43 pm]

BILLING CODE 4160–01M

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notification of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records: Evaluation of the HMO Capitation Demonstrations, HHS/HCFA/ORD No. 09–70–0027. The purpose of this system of records is to provide data necessary to evaluate HCFA's Medicare Capitation Demonstration projects. The system will furnish information necessary to study the marketing effectiveness of health maintenance organizations enrolling Medicare beneficiaries under the demonstration project, the potential selection bias in Medicare HMO enrollment that may be associated with an enrollee's health status, and the extent of out-of-plan utilization and out-of-pocket expenses incurred by Medicare beneficiaries who are "locked-in" to receiving their health care from a single provider, i.e., one of the participating HMOs A more detailed explanation of both the evaluation and the records system is included under the section entitled "Supplementary Information". HCFA invites public comments with respect to routine uses of the system by March 18, 1982.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on February 9, 1982. The new system of records including routine uses will become effective April 12, 1982, unless HCFA receives comments which would result in a contrary determination.

ADDRESS: The public should address comments to Shirley Mulhall, Privacy Officer, Office of Management and Budget, Health Care Financing Administration, G–C–3, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Alan S. Friedlob, Evaluative Studies Staff, Office of Research and Demonstrations, Health Care Financing Administration, Room 1–E–6 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, 301–597–2364.

SUPPLEMENTARY INFORMATION: HCFA proposed to initiate a new system of records collecting data under the authority of section 402 of the 1967 Amendments to the Social Security Act, Pub. L. 90–248 as amended by section 222(b) of the 1972 Amendments to the Social Security Act, Pub. L. 92–603. This system of records will include data collected through sample surveys associated with the evaluation of the following HMO Medicare demonstration projects: Fallon Community Health Plan, Worcester, Massachusetts; Health Central, Lansing, Michigan; HMO Minnesota, Eagan, Minnesota; Kaiser-Portland, Portland, Oregon; Greater Marshfield Community Health Plan, Marshfield, Wisconsin; MedCenter Health Plan, St. Louis Park, Minnesota; Nicollet-Eitel Health Plan, Bloomington, Minnesota; SHARE Health Plan Bloomington, Minnesota. This information will be collected by Research Triangle Institute, Research Triangle Park, North Carolina, sub-contractor, Jurgovan and Blair, Inc., Rockville, Maryland and Santa Rosa, California, prime contractor. This data will also be analyzed by a second evaluation sub-contractor, SysteMetrics, Inc., Bethesda, Maryland and Santa Barbara, California.

Specifically, the new system of records is associated with the following survey activities:

- Personal interview with HMO Medicare enrollees and Medicare beneficiaries who choose not to enroll in the Medicare HMO demonstration projects.

In-person interviews will be conducted with approximately 3,000 Medicare beneficiaries residing in three of the service areas of the HMO demonstration projects listed above. For purposes of this survey, the four HMOs located in the Minneapolis-St. Paul, Minnesota SMSA have the same service area and are considered a single survey site. This survey has two objectives: To determine the marketing effectiveness of these HMOs in enrolling Medicare beneficiaries and to determine the degree to which the health status of the enrolled population varies from that of a randomly chosen group of non-enrolled Medicare beneficiaries. Extensive data will be gathered from enrollees and non-enrollees on demographic characteristics which may discriminate these two groups, attitudes toward joining and disenrolling from HMOs, the influence of supplemental Medicare coverage on HMO enrollment choice, and health status inventory. This survey will also be used to gather data to compare the total cost of health care services used by non-enrolled and enrolled Medicare beneficiaries, including the extent of out-of-pocket costs and identfication of health services utilization beyond usual Medicare coverage.

- Diary Surveys and Telephone Interviews of HMO Medicare enrollees and Medicare beneficiaries who choose not to enroll in the Medicare HMO demonstration projects.

At the of the personal interview, respondents will be asked to complete a health services utilization and cost diary retrospectively for the period from the beginning of the personal interview data collection period up to the date of their interview. The respondent will then be requested to maintain the diary for a six-month period. Telephone interviewers will conduct two telephone interviews with respondents to collect diary data. The first telephone interview will occur after the first three months of the diary-keeping period, the second after the second three months of diary-keeping. This utilization data may be supplemented by patient identifiable data obtained from HMO and Medicare records.

Dated: February 9, 1982.

Carolyne K. Davis,

Administrator Health Care Financing Administration.

HHS/HCFA/ORD, 09–70–0027

SYSTEM NAME:

Evaluation of the HMO Capitation Demonstrations.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Research Triangle Institute, P.O. Box 12194, Research Triangle Park, North Carolina 27709.

Jurgovan and Blair, Inc., 51 Monroe Street, Rockville, Maryland 20850.

SysteMetrics, Inc., 4520 East-West Highway, Bethesda, Maryland 20014.

Health Care Financing Administration, ORD, Room 1E6 Oak Meadows Building, Baltimore, Maryland 21207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare beneficiaries residing in the following Counties and States: Worcester, Massachusetts; Ingham, Eaton, and Clinton, Michigan; Taylor, Clark, Wood, Marathon, Wisconsin; Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington, Minnesota; Multnomah, Clackamas, Oregon; Clark, Washington.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic characteristics, attitudes toward joining and disenrolling from HMOs, the influence of supplemental

Medicare coverage on HMO enrollment, health status (as measured by administration of a health status inventory), and health care utilization, reimbursements and costs incurred by Medicare beneficiaries enrolled and not enrolled in HMO Medicare demonstration projects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 402 of the Social Security Amendments of 1967, Pub. L. 90–248, as amended by section 222(b) of the Social Security Amendments of 1972, Pub. L. 92–603, 42 U.S.C. 1395b–1.

PURPOSE:

To provide data necessary to evaluate HCFA's Medicare Capitation Demonstration projects, including information to study the marketing effectiveness of health maintenance organization's enrolling Medicare beneficiaries under the demonstration projects, the potential selection bias in Medicare HMO enrollment that may be associated with an enrollee's health status, and the extent of in and out-of-plan utilization and out-of-pocket expenses incurred by Medicare beneficiaries who are "locked-in" to receiving their health care from a single provider (i.e., HMO).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure of identifiable information may be made to: Jurgovan and Blair, Inc., 51 Monroe Street, Rockville, Maryland 20850 and its sub-contractors, Research Triangle Institute, P.O. Box 12194, Research Triangle Park, North Carolina 27709, and SysteMetrics, Inc., 4520 East-West Highway, Bethesda, Maryland to provide overall direction for the evaluation, to collect and analyze survey information, and to link survey data with secondary data bases for analytical purposes, respectively.

2. To a congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. In event of litigation where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

RTI and SysteMetrics will store records in hard copy and magnetic tape form.

RETRIEVABILITY:

Information stored on tape will be retrieved by beneficiary name or other unique identifier assigned by Research Triangle Institute.

SAFEGUARDS:

All records will be retained in secure storage areas accessible only to authorized employees of Research Triangle Institute, Jurgovan and Blair, Inc., and SysteMetrics. All employees of these organizations having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. After the hardcopy and tapes are validated and analyzed by the evaluation contractor and its subcontractors, they will be returned to HCFA.

For computerized records, ADP systems security procedures will be instituted with reference to guidelines contained in the DHHS ADP Systems Manual, Part 6, "ADP Systems Security," (e.g., use of password).

RETENTION AND DISPOSAL:

Hardcopy data collection forms and magnetic data tapes with identifiers will be retained in secure storage areas. The disposal technique of degaussing will be used to strip magnetic tape of all identifying names and numbers in December 1987. Hardcopy will be destroyed at this time.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, Room 4228, HHS Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

NOTIFICATION PROCEDURE:

Any Medicare beneficiary who participates in this evaluation may request his or her data record in writing. This request should be addressed to the system manager indicated above, specifying name and Medicare number. These notification procedures are in accordance with Department Regulations (45 CFR Part 5b).

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requester should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR Part 5b).

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address specified above, and reasonably identify the record and specify the information to be contested and reason for contesting why it is inaccurate or incomplete. These procedures are in accordance with Department Regulations (45 CFR Part 5b).

RECORD SOURCE CATEGORIES:

Personal interviews and telephone interviews with Medicare beneficiaries completed by Research Triangle Institute or its authorized designee(s), i.e., survey research firms with which it subcontracts.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82–4063 Filed 2–12–82; 8:45 am]
BILLING CODE 4120–03–M

Health Services Administration

National Advisory Council on Migrant Health; Filing of Annual Report

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Services Adminstration Federal Advisory Committee has been filed with the Library of Congress:

National Advisory Council on Migrant Health

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, S.E., Washington, D.C., or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, North Building, Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201, Telephone (202) 245–6791. Copies may be obtained from Mr. Mario Manecci, Executive Secretary, National Advisory Council on Migrant Health, Room 7A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–1153.

Dated: February 2, 1982.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 82-4000 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-16-M

National Advisory Council on Migrant Health; Notice of Rechartering

Pursuant to the Federal Advisory Committee Act, Public Law 92-463 (5 U.S.C. Appendix I), the Health Services Administration announces the rechartering by the Secretary, HHS, on December 21, 1981, of the following Advisory Council:

Council and Termination Date
National Advisory Council on Migrant Health, Continuing

Authority for this Council is continuing and a Charter will be filed no later than October 31, 1983, in accordance with section 14(b)(2) of Public Law 92-463.

Dated: February 2, 1982.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 82-3999 Filed 2-12-82; 8:45 am]

BILLING CODE 4160-16-M

Office of the Secretary

Transfer Policy Studies; Grant Applications

Pursuant to Section 232 of the Community Services Act of 1974 and Title 45, Part 63 of the Code of Federal Regulations, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications for grants for policy analysis in the area of transfer policy. The grants will be directed at providing information and policy analysis, principally in one or more of six high priority areas, which are described in more detail in the next section.

A. Type of Application Requested

1. *High Priority Areas.* This announcement seeks applications for a grant or grants to develop and conduct a program of research and analysis on policy issues, principally in one or more of the areas described below. Except as described in (e) below, no survey work is to be supported by these grants. Applications will not be accepted from local service delivery organizations. The high priority areas for which applications are most desired are:

(a) *Assessment of the effects of transfer programs.* The Department of Health and Human Services administers several large means-tested income transfer programs, including Aid to Families with Dependent Children (AFDC), Supplemental Security Income, Medicaid, and the Low Income Energy Assistance Program. An assessment of future participation in and the likely costs of Federal involvement in these programs is needed to better understand the policy context of proposed changes in them. In particular, given the current initiative of reallocation of roles for some of these programs and Food Stamps between Federal, State and local governments, what further policy steps will lead to a system more closely aligned with citizens' needs? While the focus of the studies should be on the programs cited above, they should not be viewed in isolation from other government transfer programs (such as Unemployment Insurance, the Earned Income Tax Credit, and housing assistance). Some of the question that a grant application might address include:

i. Given past developments in a program's "life cycle" and how other programs have developed, how would the program be likely to change in the near future?

ii. What distortions of program intent or unintended impacts have the programs created?

iii. As the New Federalism is implemented, what steps are necessary to minimize disruption costs and inefficiencies, and to assure the maximum gain from the change?

(b) *Assessment of the net effects of government programs on youth.* The Assistant Secretary is interested in assessment of the effects of *all* government programs on individuals 16-24 years of age. This assessment would consider not only current government programs aimed directly at youth (e.g., the Job Corps, and Career Education) but also the effects of programs not aimed at youth, but which may put them at a disadvantage (e.g., the Minimum Wage, Davis-Bacon Act, Occupational Safety and Health Act), and the results of experimental and demonstration youth programs of the immediate past few years. Among other issues, the analysis should consider the area of school-to-work transition, addressing such questions as the following:

i. How is the transition from school-to-work affected by the availability and cost of post-secondary school education, including junior colleges, vocational schools, and four-year colleges?

ii. How can the amount of school-to-work assistance provided by the private sector be increased, e.g., through training and apprenticeship programs, cooperative education programs, and assistance to vocational education by updating curriculum and capital equipment and by hiring graduates?

The analysis should also address the relative effectiveness of targeting employment programs toward youth at an early age, 16 or 17, as compared with responding to their problems at age 18 or 19, after they may have experienced significant unemployment.

(c) *Assessment of the effects of transfer programs on family structure, and of family structure on behavior.* This two-stage analysis addresses first the question of the effects of transfer programs on family structure; i.e., on the probabilities of marriage and divorce, of remarriage, and of having children, on the number and timing of children, and of combining more than one adult generaton in a single household; and second the effects of family structure on behavior. For example, some experimental data from past studies indicate that some income transfer programs affect the probability of marital splits, and that children in single-parent families work less and are in school less than those in two-parent families. Questions to be addressed might include the following:

i. How do means-tested income transfer programs (including Aid to Families with Dependent Children, Food Stamps, Supplemental Security Income, etc. but *excluding* Old Age, Survivors, Disability, and Hospital Insurance) affect marital structure? How do they affect the probability of more than one adult generation living in the same household?

ii. How do means-tested income transfer programs affect the probability of having children within and outside of marriage? How do they affect the number and timing of children within a family?

iii. How does the absence of one parent from the household affect the subsequent educational and labor force behavior of children in the household? The labor force behavior of other adults in the household? Is the behavior affected by the age of the children at the point at which that parent leaves the household? Does remarriage change the predicted effects?

iv. Does the presence of more than one generation of adults in the same household affect the labor force behavior of adults? The education and labor force behavior of children?

(d) *Characteristics of the labor demand for low-skill workers.* This area emphasizes the characteristics of the labor markets faced by low-skill workers. It includes the problems of the poor in searching and competing for jobs, and the job design, hiring, promotion, and training policies of private-sector business firms, especially

those who do or potentially can offer low-skill entrance jobs. The match-up of data on workers and their employers is of particular importance, as most studies of the labor force problems of low-skill workers have ignored the characteristics of the jobs these workers hold and of the employers who hire the workers. The reduction of dependence on public transfer programs may depend more on the characteristics of the jobs which low-skill workers obtain than on whether or not they get employment. Some of the questions which might be explored in this area include:

i. What are the characteristics of jobs which lead to stable employment and upgrading of skills and income for low-skill workers? What selection criteria do employers use to fill those jobs?

ii. Are there ways in which jobs which currently employ low-skill workers, but do not lead to stable employment and upgrading of skills and income, can be redesigned to provide that stability and upward mobility. Are there ways workers can be offered short-term training to improve their probability of being selected for stable jobs?

iii. Does a period of receipt of transfer income reduce the probability that a worker will find and keep a stable job? Do repeated spells of receipt of transfer income affect that probability?

(e) *Motivation and economic mobility of the poor.* In this area, the Assistant Secretary is interested in investigations into the motivational factors affecting the economic mobility of poor people. Motivational factors should be conceived broadly to include psychological and cultural influences which aid or impede an individual's ability and desire to obtain upward mobility. Factors affecting the motivations of children and teenagers are of special importance, including those which affect decisions about education, training, labor force participation and employment, marriage, contraception and having children, and on application for and continuation in public assistance programs. The areas in which decisions are actually family decisions rather than individual ones is also an area of interest, as is the group dynamics involved in making the decision.

Investigations will normally, of course, include a review of existing work, and may utilize a wide variety of qualitative and quantitative techniques for gathering information, including such techniques as case studies, in-depth interviews, participant-observers, journals and logs, and small-scale surveys. Established measurement and scaling techniques may be used, or new ones devised; however, the focus of the investigation should be the factors related to decisions on economic mobility rather than the construction of tools and measurement techniques.

2. *Content and organization of the application.* The application must begin with a cover sheet followed by the required application forms and a short overview and summary of the application. The cover sheet should clearly specify which of the policy areas described above the application addresses, and each application should be limited to a single policy area. Applicants may, however, apply in more than one area, using separate applications. Each application should carefully describe the issues to be examined, hypotheses to be tested, methodology proposed for testing the hypotheses, data sources to be used, and anticipated products of the research, as well as relating the expected products to policy issues. Resumes of staff should be included, as should a full budget for the proposed grant. To the extent that directly relevant research experience is not reflected in the resumes, such experience should be described in the application.

B. Applicable Regulations

1. "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which was published in the *Code of Federal Regulations* on October 1, 1980.

2. "Administration of Grants" (45 CFR Part 74), which was published in the *Code of Federal Regulations* on June 9, 1981.

3. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouse under the procedures in OMB Circular A–95.

C. Effective Date and Duration

1. The grant award or awards pursuant to this announcement will be made in May and/or June, 1982. Applications can be for periods of up to one year (fifteen months for applications in area e), but the grants are designed to encourage short-term policy analysis which has immediate relevance to current policy questions; hence the evaluation of the applications will consider the time within which analyses can be concluded and useful products completed.

2. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. The closing dates for applications are specified in sections F and G below.

D. Statement of Funds Availability

1. The Assistant Secretary has available about $400,000 for the Fiscal Year ending September 30, 1982 for the award of grants pursuant to this announcement. No award will be made that is larger than $200,000, and it is highly likely that most or all awards will be smaller than this amount. Grants may be made in only one of the priority areas, or in more; but it is unlikely that the funds available will permit grants in all of them.

2. Grants are limited to a period of one year (fifteen months for applications in area e).

3. The amount of funds available for grants in future years has not been established. Legislative support for the funding of these grants in future years cannot be guaranteed.

E. Applications Processing

1. Applications will be initially screened for relevance to current policy issues; in particular, those of the Department of Health and Human Services. If judged irrelevant, the application will not be considered further. If judged irrelevant, the application will then be reviewed by a government review panel, possibly augmented by outside experts. Ten (10) copies of each application are required.

2. Applications will be judged as to eligibility, quality, and relevance to high priority policy issues, according to the criteria set forth below in item 5.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the application.

4. Applications should be as brief and concise as is consistent with communication with the reviewers. In no case should an application be longer than 35 double-spaced pages, exclusive of forms, resumes and the proposed budget; it should neither be unduly elaborate nor contain voluminous supporting documentation.

5. *Criteria for evaluation.* Evaluation of applications will employ the following criteria. The relative weights are shown in parentheses.

a. The potential usefulness of the objectives and anticipated results of the proposed project for informing the development of policy relating to the areas discussed in Section A above. (25 points.)

b. The potential usefulness of the proposed project for the advancement of scientific knowledge. (10 points.)

c. The clarity of statement of objectives, methods, and anticipated results. (5 points.)

d. The appropriateness and soundness of methodology, including research design, statistical techniques, modeling strategies, choice of data, and other procedures. (25 points.)

e. The reasonableness of estimated cost in relation to anticipated results. (5 points.)

f. The qualifications and experience of personnel. (30 points.)

6. Nothing in this application should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants.

F. Applications Sent by Mail

Applications sent by mail will be considered to be received on time by the Grants Officer if the application was sent by registered or certified mail and mailed not later than March 30, 1982, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service. Applicants who submit by mail, and have not received notification of receipt of their application by April 8, 1982, should contact the Grants Officer at the address listed below immediately, and make arrangements for express delivery of a second set of copies of their application, if necessary. In no case will applications that have been mailed be accepted if they are received after close-of-business April 12, 1982.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily between the hours of 9:00 a.m. and 4:30 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after close of business on April 1, 1982.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of the application, the Assistant Secretary will either (a) approve the application in whole or in part, for such amount of funds and subject to such conditions as are deemed necessary or desirable for the enhancement of policy analysis for the needs of the Assistant Secretary; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants of the disposition of their application. A signed notification of grant award will be issued to notify the applicant of the approved application.

I. Application Instructions and Forms

Copies of application forms and applicable regulations shall be obtained from, and applications submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Room 457F, Hubert H. Humphrey Building, Washington, D.C. 20201. Questions concerning the preceding information should be submitted to the Grants Officer at the same address.

Dated: February 6, 1982.

Robert J. Rubin,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 82-3974 Filed 2-12-82; 8:45 am]

BILLING CODE 4150-04-M

Social Security Administration

Delegation of Authority for Work Incentive; Demonstration Programs

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) amended title IV, Part C of the Social Security Act, as amended, by adding section 445, which establishes an alternative to current work-related programs. Under the provisions of section 445, any State may elect, as an alternative to existing programs, to operate a work incentive demonstration program for the purpose of demonstrating single agency administration of the work-related objectives of the Act. States that participate must submit an application and implementing plan that is consistent with the basic program objective of assisting applicants for and recipients of Aid to Families with Dependent Children to qualify for and obtain productive employment. The experimental program is scheduled for a three-year period.

Within the Department of Health and Human Services, the Social Security Administration has primary responsibility for assuring full and timely implementation of section 445. In order to meet this responsibility, the Secretary of Health and Human Services has delegated to the Commissioner of Social Security the following authorities:

1. Authority to approve or disapprove applications and plans submitted by States for participation in work incentive demonstration programs under section 445.

2. Authority to review expenditures and make grant awards to the States for work incentive demonstration programs.

3. Authority to perform administrative functions relating to the implementation of work incentive demonstration programs, including authority to compile and publish statistical data and to monitor, evaluate and report on program performance.

The Commissioner of Social Security may redelegate these authorities to the Deputy Commissioner, Programs, who may redelegate to the Associate Commissioner for Family Assistance.

The Secretary retained the authority to issue regulations pertaining to the work incentive demonstration programs under section 445. The Secretary also affirmed and ratified actions taken by the Commissioner or his subordinates which, in effect, involved the exercise of the authorities delegated herein to the Commissioner prior to the effective day of the delegation.

The delegation became effective on January 29, 1982.

Dated: February 7, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-3976 Filed 2-12-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

Office of Interstate Land Sales Registration

[Docket No. N-82-1110]

Administrative Proceedings of Opportunity for Hearing; Statement of Record

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, Office of Interstate Land Sales Registration, HUD.

ACTION: Notice of proceedings and opportunity for hearing.

SUMMARY: The Office of Interstate Land Sales Registration gives public notice of its attempt to serve upon certain persons (defined by statute (15 U.S.C. 1701) as individuals, unincorporated organizations, partnerships, associations, corporations, trusts, or estates) at their last known addresses, a notice requiring revisions to their Statement of Record. Service of this notice was attempted by certified mail

and was found to be undeliverable. Therefore, in accordance with 44 U.S.C. 1508, the Department is publishing this Notice of Proceedings and Opportunity for Hearing in order to effect constructive notice upon the persons listed in the attached Appendix.

DATE: Requests for hearings should be filed on or before March 3, 1982.

ADDRESS: Requests shall be filed with the Docket Clerk for Administrative Proceedings, Room 10278, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Christopher Peterson, Director, Land Sales Enforcement Division, Department of HUD, Room 4116, Washington, D.C. 20410. Telephone: (202) 755–5989. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Notice of Proceedings and Opportunity for Hearing is issued pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1706(d) and related regulations at 24 CFR 1710.45(b)(1) and 24 CFR 1720.220). The Department hereby serves the following Notice of Proceedings and Opportunity for Hearing to the persons listed in the attached Appendix:

Notice of Proceedings and Opportunity for Hearing

I

Docket No. ———
In the matter of: (subdivision) ———
(developer) ———
Representative Respondent OILSR No. ———

The Secretary in administering the Interstate Land Sales Full Disclosure Act of 1968, 15 U.S.C. 1701 et seq., and its Regulations finds his public files disclose that:

A. Respondent is a corporation organized under the laws of the State of ——— and has its principal office in ———.

B. The mailing address of Respondent's last known principal office or place of business is ———

C. The Respondent filed a Statement of Record and Property Report for the above subdivision, located in ———County, ———, which Statement of Record and Property Report, as amended, if any amendments have been filed, became effective on ——— and is still effective.

D.——— is Representative of Respondent.

(Information for completing the above format follows. The captioned matters in the Appendix are listed alphabetically by subdivision in each State. Paragraph I of the Notice of Proceedings and Opportunity for Hearing includes the captions of the separate matters. Information for the completion of the captions of each of the matters is set out in columns 1 and 2 of the aforementioned Appendix. Information for Lines A, B and C above is set out in columns 3, 4 and 5 respectively of the Appendix. Information for Line D of paragraph I is contained in the caption of the matter, and the same information is supplied in the last line of column 1 of the Appendix. The entire Notice is completed by inserting the applicable information from the Appendix in the appropriate blanks of paragraph I. In this form it is constructively noticed that the Notice of Proceedings and Opportunity for Hearing is served upon the persons listed in column 1 of the Appendix.)

II

The Office of Interstate Land Sales Registration (OILSR) from its records or from other sources has obtained information which tends to show, and it so alleges, that the Statement of Record and Property Report of the subdivision captioned above include untrue statements of material fact, or omit to state material facts required to be stated therein or necessary to make statements therein not misleading, to wit:

The developer has failed to file amendments to comply with revised regulations of the Office of Interstate Land Sales Registration or, alternatively, to file documentation establishing that no such amendments are necessary by the time required in 24 CFR 1710.400(a) (3) and (4) (1979 Edition), as amended by 45 FR 40500 (June 13, 1980) (to be codified in 24 CFR 1730.100(b) (3) (4), and (5)).

III

In view of the allegations contained in Part II above, the Secretary will provide an opportunity for a public hearing to determine:

A. Whether the allegations set forth in Part II are true and in connection therewith to afford Respondent an opportunity to establish any defenses to such allegations; and

B. What, if any, remedial action is appropriate in the public interest and for the protection of purchasers pursuant to the Interstate Land Sales Full Disclosure Act.

IV

If the Respondent desires a hearing, he shall file a request for hearing accompanied by an answer within 15 days after service of this Notice of Proceedings. Respondent is hereby notified that if he fails to file a response pursuant to 24 CFR 1720.240 and 1720.245 within 15 days after service of this Notice of Proceedings, Respondent shall be deemed in default, and the proceedings shall be determined against him, the allegations of which shall be determined to be true, and an order suspending the Statement of Record will be issued. The said order shall remain in effect until the Statement of Record and Property Report have been amended in accordance therewith, and thereupon the order shall cease to be effective.

V

Any request for hearing, answer, motion, amendment to pleadings, offer of settlement or correspondence forwarded during the pendency of this proceeding shall be filed with the Docket Clerk for Administrative Proceedings, Room 10278, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410. All such papers shall clearly identify the type of matter and the docket number as set forth in this Notice of Proceedings.

VI

It is hereby ordered, That upon request of the Respondent a public hearing for the purpose of taking evidence on the questions set forth in Part III hereof be held before an Administrative Law Judge, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410, at 10:00 a.m. on the 30th day after receipt of the answer or at such other time as the Secretary or a designee may fix by further order.

This Notice of Proceeding shall be served upon the Respondent pursuant to 24 CFR 1720.170 and/or 44 U.S.C. 1508.

Issued at Washington, D.C., February 8, 1982.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

NOTICES

In the matter of (subdivision) developer, representative and title; respondent	OILSR No. and land sales enforcement division docket No.	State of organization and location of principal office	Last known mailing address	Location of subdivision (county, State) and effective date
(1)	(2)	(3)	(4)	(5)
Alabama: Wilmer Estates, Acre Lots, Inc., Fred P. Edwards, Authorized Agent.	0–03089–01–21 81–29–IS	Alabama; Mobile, AL	203 Alverson Rd., Mobile, AL 36608	Mobile Co., AL, July 2, 1973.
Arizona: Hualapai Highlands, Rancho Escalante Cattle Co. Inc., Danny O'Keefe, President.	0–04329–02–805 81–30–IS	Arizona; Scottsdale, AZ	4450 North Saddlebag Trail, Scottsdale, AZ 85051.	Mohave Co., AZ, Jan. 16, 1976.
Colorado:				
Crested Butte South, Crested Butte Land Co., Peter D. Van Soest, President.	0–01509–05–104 81–33–IS	Colorado; Wheatridge, CO	4275 Harlan, Wheatridge, CO 80033	Gunnison Co., CO, Jan. 31, 1973.
El Pinal Units 1–4, El Pinal Subdivision Co., Allan Boyar, President.	0–02421–05–254 81–34–IS	Colorado; Evergreen, CO	Route 3, Box 119, Evergreen, CO 80439	Jefferson Co., CO, Aug. 12, 1972.
Highland Meadows Units 1 and 2, HM Development Corp., Henry Marcuso, President-Director.	0–01430–05–99 81–35–IS	Colorado; Colorado Springs, CO	295 Raven Hills Rd., Colorado Springs, CO 80919.	Teller Co., CO, Apr. 12, 1972.

NOTICES—Continued

In the matter of (subdivision) developer, representative and title; respondent	OILSR No. and land sales enforcement division docket No.	State of organization and location of principal office	Last known mailing address	Location of subdivision (county, State) and effective date
(1)	(2)	(3)	(4)	(5)
Sierra Verde Estates, Perry Lancaster, Sole Proprietor	0-01805-05-144 81-36-IS	Colorado; Durango, CO	Lemon Dam, Durango, CO 81301	LaPlata Co., CO, Jan. 20, 1972.
Delaware: Shady Dell Park Section 4, Parcel A, CFL Enterprises, Inc., Charles M. Kauffman, Senior Executive Officer.	0-03523-07-16 81-37-IS	Delaware; Georgetown, DE	101 S. Bedford St., Georgetown, DE 19947.	Sussex Co., DE, July 29, 1974.
Florida:				
Canaveral Properties, Canaveral Properties Inc., Frederick T. Hyman, President-Director.	0-00138-09-39, (A) and (XA) 81-39-IS	Florida; Hialeah, FL	975 W. 49th St., Hialeah, FL 33012	Brevard Co., FL, Aug. 11, 1976.
Cresent Estates, Flordando Investment Corp., S. I. Becker, President.	0-00633-09-142 81-40-IS	Florida; North Miami, FL	12550 Biscayne Blvd., North Miami, FL 33161.	Dade Co., FL, Aug. 5, 1971.
Gerber Groves, Section 2, United American Development, Ltd., Edward H. Gerber, President.	0-01157-09-306 81-41-IS	Florida; Ft. Lauderdale, FL	One Financial Plaza St., Ft. Lauderdale, FL 33394.	Hendry Co., FL, Aug. 27, 1970.
Indian Lake Estates, Lakeside Properties Inc., Stanley P. Whitcomb, Jr., President-Director.	0-01274-09-347 81-43-IS	Pennsylvania; King of Prussia, PA.	215 W. Dekalb Pike, King of Prussia, PA 19406.	Polk Co., FL, June 20, 1979.
Inverness Village, Continental Land Corp., Sham G. Sani, President.	0-01084-09-281 81-44-IS	Florida; Coral Gables, FL	2222 Ponce de Leon Blvd., Coral Gables, FL 33134.	Citrus Co., FL, Apr. 23, 1970.
Mt. Plymouth Fairway Estates, Southern Acre Investment, Inc., Robert Kaufman, Authorized Agent.	0-03743-09-942 81-46-IS	Florida; North Miami, FL	1500 N.E. 131 St., North Miami, FL 33161.	Lake Co., FL, Dec. 19, 1974.
New Eden on the Lakes, HPJ Inc., Harry Tzeses, President.	0-04347-09-1102 81-47-IS	Florida; Kissimmee, FL	520 W. Emmett St., Kissimmee, FL 32741.	Osceola Co., FL, Oct. 14, 1975.
Presidential Estates, Perini Land and Development Co., Arthur R. Weaver, Vice-President.	0-04345-09-1101, (A) and (B) 81-62-IS	Florida; West Palm Beach, FL	714 Chillingworth Dr., West Palm Beach, FL 33409.	Palm Beach Co., FL, Feb. 21, 1978.
Rotonda Springs, Cape Cave Corp., Robert E. Dady, Authorized Agent.	0-02689-09-801 81-63-IS	Florida; Miami, FL	444 Brickell Ave., Miami, FL 33131	Charlotte Co., FL, Feb. 12, 1981.
Sunrise West, J.C. Investments Inc., James L. Carlo, President.	0-02524-09-752 81-64-IS	Florida; Tampa, FL	2942 W. Columbus Dr., Suite 104, Tampa, FL 33607.	Polk Co., FL, Nov. 16, 1978.
Suwannee River Country, Suwannee River Ltd., Nate J. Delisi, General Partner.	0-04289-09-1080 81-65-IS	Florida; Tampa, FL	2909 Bay to Bay Blvd., Suite 103A, Tampa, FL 33609.	Lafayette Co., FL, Sept. 8, 1975.
Suwannee River Highlands, Suwannee River Highlands, Inc., Richard Grusmark, President.	0-02710-09-809 81-66-IS	Florida; Golden Beach, FL	155 Golden Beach Dr., Golden Beach, FL 33160.	Levy Co., FL, Mar. 15, 1973.
Georgia: Treasure Lake of Georgia, Great Northern Development, Frank R. Carcaise, President.	0-01317-10-9, (A-B) 81-67-IS	Pennsylvania; Pittsburgh, PA	15 Duff Rd., Pittsburgh, PA 15235	Carroll Co., GA, Mar. 10, 1972.
Idaho: Ramshorn Estates, Ramshorn Ranch Estates, Inc., Don French, President.	0-01142-12-6 81-68-IS	Idaho; Ellis, ID	Star Route, Ellis, ID 83235	Lemhi Co., ID, Sept. 17, 1970.
Maine:				
Belgrade Lakes Colony, Belgrade Lakes Colony, Inc., Stephen Hershoff, President.	0-00914-23-8 81-69-IS	Massachusetts; Chestnut Hill, MA.	1238 Bayleston St., Chestnut Hill, MA 02167.	Kennebec Co., ME, Nov. 3, 1970.
Lake Arrowhead Estates, Lake Arrowhead Estates, Inc., Bernard J. Mayer, Jr., President.	0-00888-23-7 81-70-IS	Massachusetts; Fitchburg, MA	470 Main Street, Fitchburg, MA 01420	York Co., ME, Dec. 3, 1974.
Setters Landing, Northeast General Corp., Robert A. Bernhard, President.	0-01167-23-14 81-71-IS	New York; New York, NY	15 Columbus Circle, New York, NY 10023.	Hancock Co., ME, Aug. 17, 1970.
Michigan: L'Arbre Croche, L'Arbre Croche Development Co., William A. Petzold, President.	0-02352-26-38 81-73-IS	Michigan; Detroit, MI	14827 E. Jefferson, Detroit, MI 48215	Emmet Co., MI, Aug. 11, 1972.
Missouri:				
Key Largo Nos. 1 and 2, Key Largo No. 1, First Addition and Robyn Point, El Terra Development Co., Boris Zebelman, President.	0-01103-29-26 81-74-IS	Missouri; Ladue, MO	9642 Clayton Rd., Ladue, MO 63124	Camden Co., MO, Oct. 14, 1979.
Taluk, First and Second Addition, Bagnell Investment Co., Boris Zebelman, President.	0-01202-29-38, (A) 81-75-IS	Missouri; Ladue, MO	9642 Clayton Road, Ladue, MO 63124	Benton Co., MO, Aug. 6, 1973.
Nevada: Silver Springs, Lake Lahonton Properties, Bradley A. Erickson and John F. Farren, General Partners.	0-02670-33-50 81-76-IS	Hawaii; Honolulu, HI	1481 South King St., Honolulu, HI 89614	Lyon Co., NV, Jan. 9, 1973.
Tennessee: Dale Hollow Shores, Dale Hollow Shores Corp., Salvatore J. Farina, President.	0-02988-48-78, (A) 81-83-IS	Tennessee; Celina, TN	P.O. Box 130, Celina, TN 38551	Clay Co., TN, Jan. 23, 1974.
Texas:				
Roman Hills Sections 1-3, Texas Gulf Industries, Inc., Robert D. Darnell, President.	0-02734-49-239 81-86-IS	Texas; Houston, TX	2225 North Loop W., Suite 600, Houston, TX 77008.	Montgomery Co., TX, Jan. 10, 1974.
South Fort Worth County Estates, Landbankers of America, Howard Dwight, President.	0-02611-49-214 81-87-IS	Texas; Dallas, TX	1145 Empire Central Pl., Dallas, TX 75247.	Johnson Co., TX, Nov. 13, 1972.
Tall Timbers, Lucky Five Corp., Jim Moxon, Secretary	0-02013-49-90 81-88-IS	Texas; Beaumont, TX	5975 Townhouse Lane, Beaumont, TX 77706.	Newton Co., TX, Jan. 20, 1972.
Windswept Downs Sections 1-5, Windswept Downs, Inc., Lamar Golding, President.	0-02625-49-218 81-89-IS	Texas; Houston, TX	6565 DeMoss, Suite 228, Houston, TX 77036.	Walker Co., TX, Mar. 8, 1973.
Washington: Mill Creek #1, United Development Corp., Kotaro Furusawa, President.	0-04057-56-117 81-95-IS	Washington; Seattle, WA	218 Third Ave. South, Seattle, WA 98104	Snohomish Co., WA, Aug. 7, 1975.
Bahamas: Norman's South Cay Units 1-3, San Andres Ltd., Roberta Mossman, Vice-President.	0-04515-60-139 81-96-IS	Florida; Ft. Lauderdale, FL	3000 N.E. 30th Place, Fort Lauderdale, FL 33306.	Exuma Cays, Bahamas, Dec. 27, 1976.
New Hebrides: Sulua Plantation, Sulua Plantation, Ltd., Monis Moche, Managing Director.	0-01625-60-51 81-99-IS	New Hebrides; Vila, New Hebrides.	Bouganvilla House, Vila, New Hebrides	Island of Emae, Aug. 20, 1971.

[FR Doc. 82-3858 Filed 2-12-82; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Utah: Notice of Invitation To Participate in Coal Exploration Program—Hunt Energy Corporation, U-50171

Hunt Energy Corporation, a wholly-owned subsidiary of Hunt Industries, is inviting all qualified parties to participate in a program for the exploration of coal reserves on the Wasatch Plateau east of Millburn, Utah. The lands are located in San Pepe County, Utah, and are described as follows:

T. 13 S., R. 6 E., SLM, Utah
Sec. 20, E½SW¼;
Sec. 21, lot 2;
Sec. 28, SE¼NW¼;
Sec. 33, SW¼NE¼.
Containing 199.84 acres.

Any party electing to participate in this exploration program must send written notice of such election to the Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111, and to Denise Gregory, Hunt Energy Corporation, 2500 First National Bank Building, Dallas, Texas 75202. Such written notice must be received on or before March 18, 1982.

Any party wishing to participate in this exploration program must be qualified to hold a lease under the provisions of 43 CFR 3472.1 and must share all cost on a pro rata basis. A copy of the exploration plan, as submitted by Hunt Energy Corporation is available for public review during normal business hours, in the following office, under Serial Number U-50171: Bureau of Land Management, Room 1400, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111.

Robert E. Anderson,
Chief, Division of Operations.
February 1, 1982.
[FR Doc. 82-3981 Filed 2-12-82; 8:45 am]
BILLING CODE 4310-84-M

Bureau of Reclamation

Interim Water Service Contracts; Notice of Intent To Negotiate Interim Water Service Contracts

The Regional Director of the Lower Missouri Region, Bureau of Reclamation, Department of the Interior, may enter into interim water service contracts for irrigation and municipal and industrial (M&I) water when such water is available and surplus to project needs. Contracts of this type can be entered into upon short notice to meet emergency or temporary demands. However, such contracts may not exceed 1 year in duration and are limited to not more than 10,000 acre-feet per irrigation contract or 500 acre-feet per M&I contract. All interim contracts will specify quantities, rates, and other terms and conditions in compliance with Reclamation law and Bureau of Reclamation policy.

The Regional Director of the Lower Missouri Region, Denver, Colorado, has authority to execute interim water service contracts in southeastern Wyoming, Colorado, Nebraska, and northern Kansas. For the water year 1982, it appears that water, surplus to project needs, will be available for sale from Glendo, Bonny, and Glen Elder Reservoirs of the Pick-Sloan Missouri Basin Program; Pathfinder Reservoir of the North Platte Project; Ruedi Reservoir of the Fryingpan-Arkansas Project; and Green Mountain Reservoir of the Colorado-Big Thompson Project. Other Bureau projects in the region with regulated reservoir storage may have minor quantities of surplus water available to meet temporary demands. All releases will be subject to State laws for beneficial use and prior appropriation rights.

Parties interested in receiving information about the Bureau's interim water marketing program or obtaining a temporary supply of water from a Bureau project should contact:

Project Manager, Casper, Wyoming (307) 265–5550—Glendo Reservoir and Pathfinder Reservoir, Wyoming.

Project Manager, Grand Island, Nebraska (308) 382–3660—Glen Elder Reservoir, Kansas; Bonny Reservoir, Colorado.

Project Manager, Pueblo, Colorado (303) 544–5277—Ruedi Reservoir, Colorado.

Project Manager, Loveland, Colorado (303) 667–4410—Green Mountain Reservoir, Colorado.

Unless significant public interest in the proposed interim water marketing program is demonstrated in response to this notice and local news releases or announcements, the availability of proposed draft contracts will be limited to those parties who have expressed an interest therein. Written comments from the public on the forms of the proposed contracts should be submitted not later than 30 days after the completed contract drafts are made available.

Dated: February 9, 1982.
Eugene Hinds,
Assistant Commissioner of Reclamation.
[FR Doc. 82-3990 Filed 2-12-82; 8:45 am]
BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

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 significanlty 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. OP1–21

Decided: February 4, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 13070 (Sub-3), filed January 28, 1982. Applicant: GERALD LIPPOLD & RODNEY ARNETT, d.b.a. LIPPOLD & ARNETT, 1302 South Broad St., Carlinville, IL 62626. Representative: Rodney Arnett (same address as applicant), (217) 854–2508. Transporting *commodities in bulk,* between points in IL, on the one hand, and, on the other, points in MO.

MC 81831 (Sub-6), filed January 26, 1982. Applicant: TACY'S EXPRESS, INC., P.O. Drawer 191, 550 South Street, Rensselaer, NY 12144. Representative: Martin Werner, 888 7th Ave., New York, NY 10106, (212) 697–6969. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in NY, on the one hand, and, on the other, points in CT, MA, RI, VT, NH, ME, NY, NJ, PA, DE, MD, VA, WV and DC. Condition: Issuance of a certificate in this proceeding shall cancel Certificates of Registration in Nos. MC–81831 Sub 3, issued February 11, 1964, and MC–81831 Sub 4, issued October 9, 1979.

Note.—The purpose of this application is to convert certificates of registration in Nos. MC–81831 Subs 3 and 4, to a certificate of public convenience and necessity, and to extend applicant's authority.

MC 99701 (Sub-2), filed January 25, 1982. Applicant: COFSKY'S EXPRESS, INC., 63 Austin St., Norwood, MA 02062. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *pulp, paper and related products,* between points in CT, ME, MA, NH, NY, RI, and VT, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its Certificate of Registration in No. MC–99701 (Sub-No. 1).

MC 113651 (Sub-352), filed January 27, 1982. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 1, Omaha, NE 68154. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, (402) 397–9900. Transporting *general commodities* (except classes A and B explosives), between the facilities of Ohio Valley Shippers Association, Inc., 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 121511 (Sub-1), filed January 25, 1982. Applicant: R. C. SMITH PLUMBING COMPANY, INC., d.b.a. SMITH AND COMPANY, Conroe, TX. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024, (713) 827–1407. Transporting *Mercer commodities, pipe, and contractor's equipment,* between points in TX, on the one hand, and, on the other, points in TX, AR, LA, MS, NM, and OK. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request, of its Certificate of Registration in No. MC–121511.

MC 126091 (Sub-21), filed January 28, 1982. Applicant: FRALEY & SCHILLING, INC., General Delivery, Rushville, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. 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 Traffic Executive Service Company, Inc., of Broomall, PA.

MC 127820 (Sub-23), filed January 29, 1982. Applicant: TRANS–SERVICE, INC., 1943 S. Lawn Extension, Coshocton, OH 43812. Representative: James Duvall, 220 W. Bridge St., P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 128761 (Sub-9), filed January 25, 1982. Applicant: RICHARD M. GODFREY, 8530 Kingscove Drive, Salt Lake City, UT 84121. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *merchandise displays,* between points in the U.S.

MC 136911 (Sub-8), filed January 29, 1982. Applicant: PACKAGE EXPRESS, INC., 657 Meadow Street, Chicopee, MA 01013. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103, (413) 732–1136. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in CT, MA, NJ, NY, RI and VT.

MC 138540 (Sub-5), filed February 1, 1982. Applicant: BUTLER REFRIGERATED DELIVERY, INC., R.D. #1, Harmony, PA 16037. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, (412) 281–9494. Transporting *such commodities* as are dealt in or used by wholesale and retail grocery and food business houses, and *meat byproducts and articles distributed by meat-packing houses,* between points in Allegheny and Butler Counties, PA, on the one hand, and, on the other, points in OH, PA, WV, NY, MD and MI.

MC 141021 (Sub-3), filed January 27, 1982. Applicant: PETROLEUM TRANSPORT CO., INC., P.O. Drawer 1559, Kenner, LA 70063. Representative: Harold R. Ainsworth, 2307 American Bank Bldg. New Orleans, LA 70130, (504) 522–7284. Transporting *gasoline and diesel fuel,* between points in LA and MS.

MC 141940 (Sub-6), filed January 29, 1982. Applicant: R. B. BATOR TRUCKING, INC., Lime St., Adams, MA 01220. Representative: Gerald A. Denmark, 120 South St., Pittsfield, MA 01201, (413) 499–4501. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, between Adams, MA, and points in CT, DE, ME, MD, NH, NJ, NY, PA, RI, VT, and DC.

MC 142011 (Sub-3), filed January 28, 1982. Applicant: LEISURE TIME TOURS, INC., P.O. Box 587, Mahwah, NJ 07430. Representative: Larsh B. Mehinney, 555 Madison Ave., New York, NY 10022, (212) 838–0600. As a *broker* at Mahwah, NJ, Atlantic City, NJ, Philadelphia, PA, and New York, NY, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, between points in the U.S.

MC 142831 (Sub-22), filed January 26, 1982. Applicant: HAMRIC TRANSPORTATION, INC., P.O. Box 1124, Grand Prairie, TX 75051. Representative: Thomas L. Cook, 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237, (214) 338–4108. Transporting

(1) *iron and steel articles,* between Midlothian, TX on the one hand, and, on the other, points in the U.S., and (2) *metal products,* between LaPlace, LA, on the one hand, and, on the other, points in the U.S.

MC 145371 (Sub-11), filed January 28, 1982. Applicant: MFCH, INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200–A, 205 West Touhy Ave., Park Ridge, IL 60068, (312) 698–2235. Transporting *such commodities* as are dealt in or dealt in or used by wholesale and retail grocery stores, between points in Rock Island County, IL and LaPorte County, IN, on the one hand, and, on the other, points in the U.S.

MC 147570 (Sub-8), filed January 29, 1982. Applicant: KABAT EXPRESS INC., 1944 Scranton Rd., Cleveland, OH 44113. Representative: Arthur E. Gogol, 7723 Greenwich Rd., Lodi, OH 44254, (216) 948–2531. Transporting *pulp, paper and related products and printed matter,* between points in the U.S., under continuing contract(s) with Duplex Products, Inc., of Sycamore, IL.

MC 147590 (Sub-1), filed January 25, 1982. Applicant: GOLD STREAK FREIGHT LINES, INC., 1855 E. 3rd Ave., Anchorage, AK 99501. Representative: Dalton B. Coor (same address as applicant), (907) 276–3531. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AK.

MC 147850 (Sub-3), filed February 1, 1982. Applicant: BURGESS TRUCKING COMPANY, INC., P.O. Box 96, Sedley, VA 23878. Representative: Gilbert W. Francis, P.O. Box 266, Boykins, VA 23827, (804) 654–6333. Transporting *textile mill products,* between Philadelphia, PA, and points in Southampton County, VA, on the one hand, and, on the other, points in the U.S.

MC 147910 (Sub-2), filed January 10, 1982. Applicant: SHAIN TRUCKING, INC., 8130 Upriver Road, Corpus Christi, TX 78410. Representative: John W. Carlisle, PO Box 967, Missouri City, TX 77459. Transporting (A) *Mercer commodities,* (1) between points in AR, CA, LA, MS, NM, OK, and TX, and (2) between points in AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S.; (B) *machinery* and (C) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in or in connection with (1) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (2) the completion of holes or wells drilled, (3) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and (4) the injunction or removal of commodities into and from holes and/or wells, (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S.; (d) *iron and steel articles,* between points in TX, MO, NM, OK, and LA; (E) *metal buildings and parts and equipment for metal buildings,* between Houston, TX, on the one hand, and, on the other, points in the U.S.; and (F) *grout and cement,* between Houston, TX, on the one hand, and, on the other, points in LA, OK, MS, and NM.

MC 148151 (Sub-4), filed January 18, 1982. Applicant: RAY BELLEW & SONS, INC., 7810 Almeda Genoa Road, Houston, TX 77075. Representative: Johm W. Carlisle, PO Box 967, Missouri City, Tx 77459, (713) 437–1768. Transporting (A) *Mercer commodities,* (1) between points in AR, CA, LA, MS, NM, OK, and TX, and (2) between points in AR, CA, LA, MS, NM, OK, and TX, on the one hand, and, on the other, points in the U.S., (B) *machinery* and (C) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in or in connection with (1) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (2) the completion of holes or wells drilled, (3) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites, and (4) the injunction or removal of commdities into and from holes and/or wells, (a) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, and (b) between points in AL, AR, CA, GA, FL, LA, TX, OK, and NM, on the one hand, and, on the other, points in the U.S.; (D) *iron and steel ariticles,* between points in TX, MO, NM, OK, and LA; (E) *metal buildings and parts and equipment for metal buildings,* between Houston, TX, on the one hann, and, on the other, points in the U.S.; and (F) *grout and cement,* between Houston, TX, on the one hand, and, on the other, points in LA, OK, MS, and NM.

MC 148540 (Sub-1), filed January 29, 1982. Applicant: DIXIE GAS, INC., P.O. Box 40, Marks, MS 38646. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205, (601) 948–5711. Transporting *anhydrous ammonia,* between points in Phillips County, AR, on the one hand, and, on the other, points in AL, KY, LA, MS, MO, and TN.

MC 14830 (Sub-5), filed January 27, 1982. Applicant: THE CANDY EXPRESS, 1600 East Gregory, North Little Rock, AR 72114. Representative: Harry E. McDermott, Jr., 212 Center St., Suite 700, Little Rock, AR 72201, (501) 374–3773. Transporting *general commodities* (except classes A and B explosives), between points in Pulaski County, AR, and points in OK.

MC 148780 (Sub-5), filed January 26, 1982. Applicant: ENGINEERED TRANSPORT SERVICES, INC., 3001 Ponce de Leon Blvd., Suite 201, Coral Gables, FL 33134. Representative: Charles R. Stiller (same address as applicant), (305) 441–7125. Transporting *flavoring syrups, beverages, beverage preparations, and flavoring compounds,* between points in the U.S., under continuing contract(s) with Coca-Cola USA, a division of The Coca-Cola Company, of Atlanta, GA.

MC 149290 (Sub-1), filed January 26, 1982. Applicant: GARY G. BUNDAY d.b.a. GARY BUNDAY TRUCKING, 35660 Frontage Road, Bozeman, MT 59715. Representative: Steven K. Kuhlmann, 717 17th St., Suite 2600, Denver, CO 80202, (303) 892–6700. Transporting *food and related products,* between points in the U.S.

MC 150301 (Sub-17), filed January 28, 1982. Applicant: EQUITY TRANSPORTATION COMPANY, INC., 9744 E. Fulton Rd., Ada, MI 49301. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S., under continuing contract(s) with B & B Beer Distributing Company, of Grand Rapids, MI, and Haworth, Inc., of Holland, MI.

MC 151721 (Sub-3), filed January 25, 1982. Applicant: LAUFENBERG FEED & AGRI-SERVICE, INC., Route 1, P.O. Box 90A, Highland, WI 53543. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703 (608) 256–7444. Transporting *lumber and lumber products,* between points in AZ, CO, and UT, 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 151890 (Sub-1), filed January 25, 1982. Applicant: D&T EXPRESS, INC., 4230 Elvis Presley Blvd., Suite 400B, Memphis, TN 38116. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004, (202) 347–8862. Transporting *general commodities* (except classes A

and B explosives), between Nashville and Memphis, TN, on the one hand, and, on the other, those points in the U.S. in and west of TX, OK, NE, ND and SD.

MC 152971, filed January 25, 1982. Applicant: DEEP SOUTH FREIGHT LINES, LTD., 6308 Boutall Street, Metairie, LA 70003. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103, (817) 332–4718. Transporting (1) *food and related products,* between points in LA, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, NC, OH, OK, SC, TN, TX, VA, WI and WV, and (2) *household appliances,* between points in LA and TN.

MC 156061 (Sub-3), filed December 29, 1981, previously noticed in the **Federal Register** issue of January 18, 1982. Applicant: LAND & SEA, INC., Route 6, Twin Falls, ID 83301. Representative: Timothy R. Stivers, P.O. Box 1576, Boise, ID 83701, (208) 343–3071. Transporting *chemicals and related products,* between points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY.

Note.—This republication clarifies the territorial description.

MC 157691 (Sub-2), filed January 22, 1982. Applicant: BLUE VELVET TRANSPORT, INC., 50 West Broad Street, Columbus, OH 43215. Representative: James W. Muldoon (same address as applicant), (614) 464–4103. Transporting *such commodities* as are dealt in by manufacturers and distributors of food and food products, between points in the U.S.

MC 157691 (Sub-3), filed January 29, 1982. Applicant: BLUE VELVET TRANSPORT, INC., 50 W. Broad, Columbus, OH 43215. Representative: James W. Muldoon (same address as applicant), (614) 464–4103. Transporting (1) *such commodities* as are dealt in or used by manufacturers and distributors of toilet articles and toilet preparations, between points in Summit County, OH, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, MO, AR, and LA, (2) *such commodities* as are dealt in or used by manufacturers and distributors of machinery, between Worchester, MA, and points in Auglaize, Montgomery, Miami, and Stark Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), (3) *such commodities* as are dealt in or used by manufacturers and distributors of household appliances, between Atlanta, GA, Denver, CO, Dallas, TX, Chicago, IL, San Francisco and Los Angeles, CA, Kansas City, MO, Minneapolis, MN, and points in Stark County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI), (4) *such commodities* as are dealt in or used by manufacturers and distributors of containers and packaging products, between points in the U.S. (except AK and HI), and (5) *general commodities* (except classes A and B explosives and household goods), between points in Cook, Lake, and Du Page Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158300, filed January 28, 1982. Applicant: GERALD COSSETT d.b.a. GERALD COSSETT TRUCKING, 2205 5th Ave. North, Fargo, ND 58102. Representative: Charles E. Johnson, P.O. Box 2056, Bismarck, ND 58502–2056, (701) 223–5300. Transporting (1) *general commodities,* between points in Cass County, ND, on the one hand, and, on the other, points in the U.S., (2) *foodstuffs,* between the facilities of Chef-Reddy Foods, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S., (3) *lumber,* between points in WI, MN, IA, SD, ND, MI and WI, and (4) *railroad ties,* between points in the U.S.

MC 158651 (Sub-1), filed January 26, 1982. Applicant: GRAEBEL VAN LINES, INC., 820 South 8th Ave., Wausau, WI 54401. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* as defined by the Commission, between points in the U.S.

MC 158931, filed January 29, 1982. Applicant: CELEBRITY LIMOUSINE, INC., 1228 Spruce Street, Philadelphia, PA 19107. Representative: Barbara S. Chesarek, 2600 The Fidelity Bldg., Philadelphia, PA 19109, (215) 875–7000. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 6 passengers in any one vehicle, not including the driver, between points in PA, on the one hand, and, on the other, points in Atlantic and Cape May Counties, NJ.

MC 158941, filed January 25, 1982. Applicant: PIONEER TRUCKING COMPANY, INC., U.S. Hwys 64 & 70 East, P.O. Box 1961, Hickory, NC 28601. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703) 629–2818. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, KY, IL, IN, MA, MD, MI, NC, NJ, NY, OH, PA, RI, SC, TN, VA, and WV, (2) *textile mill products,* (a) between points in NC, NJ, NY, PA, RI, SC, and TN, on the one hand, and, on the other, points in CA, CT, ME, MN, MO, TX, UT, and VT, and (b) between points in NC, on the one hand, and, on the other, points in MS, (3) *chemicals and related products,* (a) between points in Mecklenburg County, NC, on the one hand, and, on the other, points in CA, IA, LA, OK, TX, and WA, and (b) between points in Catawba County, NC, on the one hand, and, on the other, points in MO, and (4) *metal products,* between points in Burke County, NC, on the one hand, and, on the other, points in TX.

MC 159411, filed January 25, 1982. Applicant: JERRY GRASSO & SON, INC., P.O. Box 254-Western Ave., Marlboro, NY 12542. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835–4411. Transporting *fruit juices,* between points in the U.S. (except AK and HI).

MC 159951, filed January 21, 1982. Applicant: MICHAEL TADIN d.b.a. MARINA CARTAGE CO., 4334 S. Western, Chicago, IL 60608. Representative: Irwin D. Rozner, 134 N. LaSalle St., Chicago, IL 60602, (312) 782–6937. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in IL, MI, OH, IA, IN, WI, MN and MO.

MC 160091, filed January 25, 1982. Applicant: BLUE AND WHITE TRANSPORT, INC., 914 Royal Blvd., Boise, ID 83706. Representative: Kevin M. Clark, 1003 N. 8th St., Suite 200, Boise, ID 83702, (208) 344–7714. Transporting *petroleum,* between points in ID, OR, WA, and MT.

MC 160220, filed January 21, 1982. Applicant: FLOYD HEUERMAN d.b.a. FLOYD HEUERMAN TRUCKING, R.R. #3, Box 272A, Effingham, IL 62401. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting (1) *building materials, lumber and wood products, and clay, concrete, glass or stone products,* between points in the U.S., under continuing contract(s) with Effingham Builders Supply Co., of Effingham, IL, and (2) *farm products, farm machinery, and fertilizers,* between points in the U.S., under continuing contract(s) with Effingham Equity, of Effingham, IL.

MC 160251, filed January 25, 1982. Applicant: SPEASE INC, 6623 Kansas Ave., Kansas City, KS 66111. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102, (314) 636–2321. Transporting *chemicals and related products,* between points in Pettis County, MO, and Kings County, NY, on the one hand, and, on the other, points in the U.S..

MC 160280, filed January 27, 1982. Applicant: FDD, INC., 2020 Bruck Street, Columbus, OH 43207. Representative: Owen B. Katzman, 1828 L Street, N.W., Suite 1111, Washington, DC 20036, (202) 822–8200. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with The Distribution Division of Franklin Chemical Industries, Inc., of Columbus, OH.

MC 160281, filed January 27, 1982. Applicant: KAREN BUS CO., INC., 132 Lake Avenue, Boonton, NJ 07005. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904, (201) 572–5551. Transporting *passengers and their baggage*, in the same vehicle with passengers in charter operations, beginning and ending at points in Kings, NY and points in Orange and Rockland Counties, NY, Bergen, Hudson, Morris and Passaic Counties, NJ, and extending to points in CT, DE, FL, GA, KY, ME, MA, MD, NJ, NY, NC, PA, RI, SC, TN, VT, VA, WV and DC.

MC 160300, filed January 28, 1982. Applicant: TRANSPORT ALIVE CORPORATION, 333 Eagle Drive, Bedford, TX 76021. Representative: Bobby H. Hataway (same address as applicant), (817) 498–0173. Transporting *foodstuffs*, between Fresno and Gustine, CA, Jacksonville, IL, Sherman, TX, Humbolt, TN, and Monroe, Waupaca, and Mayville, WI, on the one hand, and, on the other, points in the U.S.

MC 160320, filed January 29, 1982. Applicant: BRADBERRY TRUCKING, 26026 Kuykendahl, Tomball, TX 77375. Representative: S. E. Bradberry (same address as applicant), (713) 351–1714. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Jet-Lube, Inc., of Houston, TX.

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Decided: February 4, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 2202 (Sub-678), filed January 28, 1982. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014, (301) 986–1410. 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 Montgomery Ward & Co., of Chicago, IL.

MC 16903 (Sub-93), filed January 25, 1982. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846–6655. Transporting *railroad trackage, railroad track and cross ties*, between points in the U.S.

MC 24583 (Sub-49), filed January 27, 1982. Applicant: FRED STEWART COMPANY, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, Suite 411, 211 W. 2nd, Little Rock, AR 72201, (501) 375–3022. Transporting *chemicals, plastics, plastic products, and metal products*, between points in the U.S., (except AK and HI), under continuing contract(s) with The Dow Chemical Company, of Strongsville, OH.

MC 69492 (Sub-80), Filed January 19, 1982. Applicant: HENRY EDWARDS TRUCKING CO., INC., P.O. Box 97, Clinton, KY 42031. Representative: Roland M. Lowell, Fifth Floor, 501 Union Street, Nashville, TN 37219, (615) 255–0540. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Mississippi County, MO, on the one hand, and, on the other, those points in U.S. in and east of ND, SD, NE, CO, and NM, (2) *rubber and plastic products*, between the facilities of the General Tire and Rubber Company, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 81592 (Sub-9), Filed January 18, 1982. Applicant: WISCONSIN NORTHERN TRANSPORTATION COMPANY, INC., Vernon Street, Washington Heights, Eau Claire, WI 54701. Representative: Frederick A. Zank, 1209 Nixon, Eau Claire, WI 54701, (715) 835–6329. Over regular routes, transporting *passengers and their baggage, and express*, in the same vehicle with passengers, and express, between Eau Claire, WI, and La Crosse, WI, over Interstate Hwy 94, to Osseo, WI, and then over WI Hwy 53 to La Crosse, and return over the same route, serving all intermediate points. Note: Applicant intends to tack this authority with existing regular-route operations between Duluth, MN, and Eau Claire, WI.

MC 95813 (Sub-23), Filed January 26, 1982. Applicant: SHUMAKER TRUCKING COMPANY, 601 U.S. Route 15 North, Dillsburgh, PA 17019. Representative: David Shumaker (same as applicant), (717) 432–9617. Transporting *lumber and wood products, building and construction materials, and machinery*, (a) between ports of entry on the international boundary line between U.S., and Canada, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, PA, RI, SC, TN, VT, VA, WV, WI, and DC, and (b) between points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, OH, NC, PA, RI, SC, TN, VT, VA, WV, WI, and DC.

MC 124802 (Sub-21), filed January 18, 1982. Applicant: ACE MOTOR FREIGHT, INC., R.D. #2, Summerville, PA 15864. Representative: Larry R. McDowell, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107, (215) 735–3090. Transporting *clay, concrete, glass or stone products*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 127042 (Sub-310), filed January 18, 1982. Applicant: HAGEN, INC., P.O. Box 3208, Sioux City, IA 51102. Representative: Joseph B. Davis (same address as applicant), (712–255–8986). Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with Wilson Trailer Company, of Sioux City, IA.

MC 133552 (Sub-1), filed January 18, 1982. Applicant: KOEHLER TRANSFER, INCORPORATED, Old Rt. 66, Box 96, Dwight, IL 60420. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701, (217) 544–5468. Transporting *foodstuffs*, between points in the U.S., under continuing contract(s) with Chi Chi Foods Limited, of Bensonville, IL.

MC 138393 (Sub-3), filed January 18, 1982. Applicant: CUSTOM SAND & GRAVEL HAULING, INC., 3102 Glenwood, Rapid City, SD 57701. Representative: James W. Olson, 2525 West Main, Suite 206, Rapid City, SD 57701, (605) 342–7090. Transporting *clay, concrete, glass or stone products* between points in SD, NE, and WY.

MC 140243 (Sub-17), filed January 18, 1982. Applicant: APPLE HOUSE, INC., 3726 Birney Avenue, Scranton, PA 18505. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505, (717) 342–7595. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, FL, NJ, NY, and PA, on the one hand, and, on the other, points in the U.S.

MC 141032 (Sub-3), filed January 18, 1982. Applicant: ALCO BUS CORPORATION, 715 South Pearl Street, Janesville, WI 53545. Representative:

Richard A. Westley, 4506 Regent Street, Suite 100, P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting (1) *passengers and their baggage,* in the same vehicle with passengers, and (2) *newspapers and parcels* weighing no more than 150 pounds each, when moving in the same vehicle with passsengers and their baggage, between Beloit, WI and South Beloit, IL, over Interstate Hwy 90, serving all intermediate points.

Note.—Applicant intends to tack this authority at Beloit, WI, with its existing route extending between Madison, WI, Janesville, WI, and O'Hare International Airport at or near Chicago, IL.

MC 141932 (Sub-52), filed January 18, 1982. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Alton C. Gardner (same address as applicant), (617) 871–2550. Transporting *alcoholic beverages,* between points in ME, on the one hand, and, on the other, points in the U.S.

MC 142352 (Sub-11), filed January 25, 1982. Applicant: HAUSMAN TRUCKING, INC., 4839 Edgebrook Road, P.O. Box 56, Waterloo, IA 50701. Representative: Daniel O. Hands, Suite 200–A, 205 West Touhy Ave., Park Ridge, IL 60068, (312) 698–2235. Transporting *food and related products* between the facilities of The Rath Packing Co., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 142593 (Sub-3), filed January 25, 1982. Applicant: WARNER BROS., INC., Rte. 116, P.O. Box 395, Sunderland, MA 01375. Representative: David M. Marshall, 101 State St., Suite 304, Springfield, MA 01103 (413) 732–1136. Transporting *such commodities* as are dealt in by a manufacturer or distributor of coal, coke and related products, between points in the U.S., under continuing contract(s) with George E. Warren Corporation, of Boston, MA.

MC 142603 (Sub-65), filed January 25, 1982. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 179, Springfield, MA 01101. Representative: Barbara J. Withers (same address as applicant), (413) 732–6283. Transporting *paper and paper products, school supplies,* between points in the U.S., under continuing contract(s) with Clinton Paper Co., Inc., of Castanea, PA.

MC 146402 (Sub-42), filed January 27, 1982. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, 200 Conalco Drive, Jackson, TN 38301. Representative: Charles W. Teske, (same as applicant), (901)423–2408. Transporting *paper and plastic products, and such commodities* as are used in the manufacture and distribution of paper and plastic products, between points in Shelby County, IL and Cook County, IL, on the one hand, and, on the other, points in the U.S.

MC 148203 (Sub-6), filed January 18, 1982. Applicant: COPPER CITY TRANSPORT, INC., Old Route 5 S, RD #2, Frankfort, NY 13340. Representative: Murray J. S. Kirshtein, 118 Bleecker Street, Utica, NY 13501, (315) 797–1970. Transporting *such commodities* as are dealt in or used by manufacturers of dry expanded animal food in bags, between points in the U.S., under continuing contract(s) with Chenango Valley Pet Foods, Inc., of Sherburne, NY.

MC 154283 (Sub-1), filed January 28, 1982. Applicant: ELGIN MILK SERVICE, INC., Route 1, Elgin, MN 55932. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612)333–1341. Transporting *food and related products,* between points in Manitowoc County, WI and Wabasha County, MN, on the one hand, and, on the other, points in IA, IL, IN, KS, MI, MO, MN, NE, ND, SD and WI.

MC 159353, filed January 25, 1982. Applicant: LARRY W. MURPHY, d.b.a. MURPHY'S CONTRACT CARRIER, P.O. Box 9621, Chattanooga, TN 37412. Representative: M. C. Ellis, c/o Chattanooga Freight Bureau, Inc., 1001 Market St., Chattanooga, TN 37402, (615)756–3620. Transporting *such commodities* as are dealt in and sold by retail stores, between points in the U.S., under continuing contract(s) with K-Mark Corp., of Troy, MI.

MC 160102, filed January 15, 1982. Applicant: CARL BUDDING TRANSPORTATION COMPANY, 11914 South Peoria Street, Chicago, IL 60643. Representative: Edward G. Bazelon, 29 South La Salle Street, Chicago, IL 60603, (312) 236–9375. 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 (1) Carl Budding & Company and its subsidiaries, of Chicago, IL, (2) Old Wisconsin Sausage Co., Inc., of Sheboy San, WI, and (3) Smokie Product, Inc., of Jackson, WI.

MC 160152, filed January 18, 1982. Applicant: BOON AND BOON, INC., 118 S. Second Street, Milwaukee, WI 53204. Representative: Ronald E. Laitsch, 108 S. Second Street, Watertown, WI 53094, (414) 261–9725. Transporting *general commodities,* (except classes A and B explosives, household goods, and commodities in bulk), between points in WI, on the one hand, and, on the other, points in the U.S.

MC 160172, filed January 18, 1982. Applicant: CARMAC TRANSPORT, INC., 275 Walker Avenue, Clarendon Hills, IL 60514. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521, (321) 629–2900. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, and Lake, LaPorte and Porter Counties, IN; St. Charles, St. Louis, Counties and St. Louis, MO, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, KY, MI, MO, MN, ND, NE, OH, SD and WI.

MC 160242, filed January 25, 1982. Applicant: GEORGE E. NOAH, d.b.a. NOAH ENTERPRISES, 3210 No. 97th St., Omaha, NE 68134. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104, (712) 255–3127. 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 Dugdale of Nebraska, Inc., of Norfolk, NE.

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Decided: February 4, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 1335 (Sub-6), filed January 25, 1982. Applicant: MOTEK TRANSPORT, INC., P.O. Box 123, Harleysville, PA 19438. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202, (716) 854–5870. Transporting *such commodities* as are dealt in or used by food business houses, between points in Erie and Niagara Counties, NY, on the one hand, and, on the other, points in MD and PA.

MC 61294 (Sub-4), filed January 29, 1982. Applicant: PEOPLE'S FUEL AND TRUCKING, INC., 73 City Hall Ave., Gardner, MA 01440. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, (617) 235–5571. Transporting *petroleum and petroleum products,* between points in Bristol, Essex, Hampden, Middlesex, Norfolk, Suffolk, and Worcester Counties, MA, on the one hand, and, on the other, points in NH.

MC 88285 (Sub-6), filed January 27, 1982. Applicant: BRUCE & SON VAN & STORAGE CO., P.O. Drawer 7280, 6035 Canyon Expressway, Amarillo, TX 79109. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *household goods,* (a) between points in AZ, AR, CA, CO, IA, IL, KS, KY, LA, MS, MO, MT, NE, NV, NM, OK, TN, TX, UT, and WY, and

(b) between points in AZ, AR, CA, CO, IA, IL, KS, KY, LA, MS, MO, MT, NE, NV, NM, OK, TN, TX, UT, and WY, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY, and DC.

MC 116014 (Sub-93), filed January 25, 1982. Applicant: OLIVER TRUCKING COMPANY, INC., P.O. Box 53, Winchester, KY 40391. Representative: Harry Ross, 58 S. Main St., Winchester, KY 40391, (606) 744–3503. Transporting *general commodities* (except classes A and B explosives and household goods), between points in NJ, NH, MA, and CT, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, MD, MI, MS, MO, NC, OH, OK, PA, SC, TN, VA, WV, WI, and NY.

MC 121625 (Sub-3), filed January 25, 1982. Applicant: ARK CITY EXPRESS, INC., 1201 South First St., Arkansas City, KS 67005. Representative: Monty R. Coble (same address as applicant), (316) 442–3073. Transporting *bicycles,* between points in Kay County, OK and Cowley County, KS, on the one hand, and, on the other, points in the U.S.

MC 144844 (Sub-16), filed January 25, 1982. Applicant: OZARK TRANSPORTATION, INC., P.O. Box 203, Greenville, MO 63944. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603, (312) 263–2306. Transporting (1) *metal products,* (2) *building materials,* (3) *lumber or wood products,* (4) *machinery,* (5) *transportation equipment,* and (6) *Mercer commodities,* between points in the U.S.

MC 146065 (Sub-6), filed January 25, 1982. Applicant: DAY TRANSFER, INC., 1187 Kentucky Ave., P.O. Box 1426, Indianapolis, IN 46206. Representative: John H. Day, 3909 S. Lynhurst Dr., Indianapolis, IN 46241, (314) 856–3333. Transporting *such commodities* as are dealt in or used by grocery stores, drug stores, and warehouses, between points in IN, OH, KY, TN, GA, IL, NY, NJ, FL, PA, and MA.

MC 146724 (Sub-10), filed January 25, 1982. Applicant: DEAN RAPPLEYE, INC., P.O. Box 204, 7444 S. 2200 West, West Jordan, UT 84084. Representative: Daniel O. Hands, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *food and related products,* between the ports of entry on the international boundary line between the Uniited States and Canada, at points in ID, MN, MT, ND, and WA, on the one hand, and, on the other, those points in the U.S. in and west of MN, IA, MO, AR, and LA.

MC 146814 (Sub-15), filed January 25, 1982. Applicant: VAN WYK, INC., C St., Sheldon, IA 51201. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, (402) 397–7033. Transporting *food and related products,* between the facilities of John Morrell & Co., at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 147055 (Sub-5), filed January 29, 1982. Applicant: CURTIS DENNIS EQUIPMENT, INC., d.b.a. C. D. E. EXPRESS, P.O. Box 2057, Heath, OH 43055. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017, (614) 889–2531. Transporting *general commodities* (except classes A and B explosives), between points in Licking County, OH, on the one hand, and, on the other, points in the U.S.

MC 147494 (Sub-8), filed January 25, 1982. Applicant: BOBBY KITCHENS, INC., P.O. Drawer 5690, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *machinery,* and *metal products,* between points in AL, AR, KS, LA, MI, MS, MO, OR, PA, TN, TX, and WV, on the one hand, and, on the other, points in the U.S.

MC 150724 (Sub-8), filed January 27, 1982. Applicant: DONALD SANTISI TRUCKING CO., a corporation, 340 Victoria Rd., P.O. Box 4145, Youngstown, OH 44515. Representative: Andrew J. Burkholder, 275 E. State St., Columbus, OH 43215, (614) 228–8575. Transporting *general commodities* (except commodities in bulk and hosehold goods), between points in Cuyahoga, Lorain, Lake, Ashtabula, Geauga, Portage, Summit, Medina, Wayne, Stark, Mahoning, Trumbull, Columbiana, Carroll, Harrison, Jefferson, and Belmont Counties, OH, on the one hand, and, on the other, points in the U.S.

MC 151384 (Sub-5), filed January 25, 1982. Applicant: G & J TRUCKING INC., P.O. Box 4201, Ft. Smith, AR 72914. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601, (501) 741–3501. Transporting (1) *fuel pumps,* between points in Sequoyah County, OK, on the one hand, and, on the other, points in the U.S., and (2) *food and related products,* between points in OK, AR, and TX, on the one hand, and, on the other, points in the U.S.

MC 152744 (Sub-2), filed January 28, 1982. Applicant: CITADEL TRANSPORT, INC., 180 N. Michigan Ave., Chicago, IL 60601. Representative: Daniel C. Sullivan, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603, (312) 263–1600. Transporting *such commodities* as are dealt in or used by breweries, between points in the U.S., under continuing contract(s) with The Stroh Brewery Company, of Detroit, MI.

MC 152775 (Sub-1), filed January 27, 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 *metal products,* between points in St. John the Baptist Parish, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, TN, and TX.

MC 152775 (Sub-2), filed January 28, 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 *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 United Forwarding, Inc., of Omaha, NE.

MC 157235 (Sub-1), filed January 28, 1982. Applicant: INDIANA TRUCK LINES, INC., P.O. Box 8056, Ft. Wayne, IN 46898. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797–6060. Transporting *pumps and related parts,* between points in the U.S., under continuing contract(s) with Tokeheim Corporation, of Ft. Wayne, IN.

MC 160254, filed January 25, 1982. Applicant: ALERT COACH LINES, INC., 24 Railroad Ave., East Northport, NY 11731. Representative: John V. N. Klein, 1505 Kellum Place, Mineola, NY 11501, (516) 741–6565. Transporting *passengers and their baggage,* in round-trip charter operations, beginning and ending at points in Nassau and Suffolk Counties, NY, and extending to points in the U.S. (including AK, but excluding HI).

MC 160255, filed January 25, 1982. Applicant: ARTESIAN TRANSPORTATION, INC., 201 E. Fifth St., Mansfield, OH 44901. Representative: R. G. Wallace, (same address as applicant), (419) 522–4211. Transporting *plastic granules and pellets* (except in bulk), between points in the U.S., under continuing contract(s) with Advanced Plastics, of Crestline, OH.

MC 160255 (Sub-1), filed January 25, 1982. Applicant: ARTESIAN TRANSPORTATION, INC. 201 E. Fifth St., Mansfield, OH 44901. Representative: R. G. Wallace, (same address as applicant), (419) 522–4211. Transporting *bowling balls,* between

points in the U.S., under continuing contract(s) with American Machine & Foundry, of Shelby, OH.

MC 160274, filed January 27, 1982. Applicant: JEFFRIES TRUCKING CO., INC., 748 W. Old 422, Butler, PA 16001. Representative: James Jeffries, (same address as applicant), (412) 283–4715. Transporting *general commodities* (except classes A and B explosives), between points in OH and PA, on the one hand, and, on the other, points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, RI, SC, SD, TN, TX, UT, VT, VA, WV, WA, WI, and WY.

MC 160284, filed January 24, 1982. Applicant: T.S.W., INC., 412 North Capitol Avenue, Indianapolis, IN 46204. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, (317) 630–1301. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with The Kroger Company of Cincinnati, OH.

MC 160294, filed January 28, 1982. Applicant: HAYES, INC., P.O. Box 159, Betsy Layne, KY 41605. Representative: Herbert D. Liebman, P.O. Box 478, 403 W. Main St., Frankfort, KY 40602, (502) 875–3493. Transporting *mining and road building equipment* and *machinery,* between points in Floyd, Pike, Johnson, Letcher, Martin, Knott, Perry, Breathitt, Leslie, Laurel, Rowan, Magoffin, Morgan, Powell, Lawrence, Clark, Wolfe and Fayette Counties, KY, on the one hand, and, on the other, points in KY, OH, VA, WV, TN, NC, AR, IN, IL, TX, and MI.

MC 160295, filed January 28, 1982. Applicant: CHARLES A. MORRISON, 10819 S. U.S. Hwy 24, Leadville, CO 80461. Representative: (same as applicant) (303) 486–1759. Transporting (1) *Mercer commodities,* (2) *such commodities* as are dealt in or used by the oil and gas industries (except Mercer commodities), and (3) *lumber and wood products, metal products,* and *machinery,* between points in CO, UT, NV, AZ, NM, OK, TX, WY, MT, and ID.

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Decided: February 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 123265 (Sub-8), filed January 29, 1982. Applicant: SANTRY TRUCKING CO., 10505 N.E. 2nd Ave., Portland, OR 97211. Representative: George P. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, (206) 228–3807. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Beadex Manufacturing Co., of Renton, WA.

MC 134405 (Sub-108), filed January 29, 1982. Applicant: BACON TRANSPORT COMPANY, a corporation, P.O. Box 1134, Ardmore, OK 73401. Representative: Wilburn L. Williamson, Suite 107, 50 Classen Center, 5101 North Classen Blvd., Oklahoma City, OK 73118, (405) 848–7946. Transporting *commodities in bulk,* between points in AR, CO, IL, IN, KS, LA, MS, MO, MT, NM, OK, TX, UT, WI, and WY.

MC 152775 (Sub-4), filed February 1, 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 *metal products,* between points in the U.S., under continuing contract(s) with Natchez Steel Corp., of Natchez, MS, Universal Steel Co., of Vicksburg, MS, Sabel Steel Service, Inc., of Montgomery, AL, NOLA Steel, Inc., of New Orleans, LA, Jeffreys Steel Co., Inc., of Mobile, AL, and Intercontinental Metals Corp., of New Orleans, LA.

MC 155775 (Sub-2), filed January 29, 1982. Applicant: NORTHWESTERN MICHIGAN TRUCKING, INC., 9196 11 Mile Rd., Bear Lake, MI 49614. Representative: William B. Elmer, 615 E. Eighth St., Traverse City, MI 49684, (616) 941–5313. Transporting *Food and related products,* between points in MI, PA, OK, OH, and those in Campbell County, TN, Berkeley County, WV, and DeKalb County, GA, on the one hand, and, on the other, points in the U.S.

MC 159195, filed January 29, 1982. Applicant: CHARLES DAMPMAN, INC, P.O. Box 217, Douglassville, PA 19518. Representative: L. Stanley Mauger, 240 King St., Pottstown, PA 19464, (215) 323–4100. Transporting (1) *lumber and forest products,* between points in the U.S. (except AK and HI), under continuing contracts with Charles H. Weaber & Sons, Inc, of Lebanon, PA, Kulp & Staudt, Inc., of Pennsburg, PA, Lumber Sales & Service, of Ambler, PA, and Taiga Wood Products, Arbre Forest Products Division, in Milton, Ontario, Canada, and (2) *building materials,* between points in the U.S., under continuing contract(s) with Kulp & Staudt, Inc., of Pennsburg, PA.

MC 159675, filed January 29, 1982. Applicant: PAUL M. LUKE, d.b.a. L & B TRUCKING COMPANY, P.O. Box 225, Centerville, LA 70522. Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205, (601) 355–3543. Transporting *paper and paper products,* between points in the U.S., under continuing contract(s) with Crown-Zellerbach Corporation, of Bogalusa, LA.

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Decided: February 8, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 116725 (Sub-30), filed January 29, 1982. Applicant: INDIAN VALLEY ENTERPRISES, INC,. 855 Maple Avenue, Harleysville, PA 19438. Representative: Daniel W. Krane, P.O. Box E, Shiremanstown, PA 17011. Transporting (1) *food and related products,* and (2) *pulp, paper and related products,* between Philadelphia, PA, and points in Bucks County, PA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR and TX.

MC 123054 (Sub-34), filed January 29, 1982. Applicant: R & H CORPORATION, 295 Grand Ave., Box 469, Clarion, PA 16214. Representative: William J. Lavelle, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *such commodities* as are dealt in or used by manufacturers of paper and paper products and specialty chemicals, between the facilities of or used by Westvaco Corporation and its subsidiaries and affiliates at those points in the U.S. in and east of MN, IA, MO, AR, and LA, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 126545 (Sub-14), filed February 2, 1982. Applicant: GLENERY, INC., 173 Hickory St., Kearny, NJ 07032. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036, (202) 785–0024. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S., under continuing contract(s) with J. A. Tucker Co., of Westville, NJ.

MC 140334 (Sub-12), filed January 29, 1982. Applicant: AM-CAN TRANSPORT SERVICE, INC., P.O. Box 859, Anderson, SC 29621. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202, (303) 892–6700. Transporting *general commodities*(except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in GA, NC, SC and VA, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, KS, OK and TX.

MC 147644 (Sub-11), filed February 1, 1982. Applicant: J. MC. TRANSPORT, INC., 1719 Potters Ln., Jeffersonville, IN 47130. Representative: Gerald K. Gimmel, 444 N. Frederick Ave., Suite 200, Gaithersburg, MD 20877, (301) 840–8565. Transporting *printed matter,*

between Los Angeles and San Francisco, CA, Philadelphia, PA and points in Jefferson and Fayette Counties, KY, Marion County, IN, Dallas and Houston Counties, TX on the one hand, and, on the other, points in the U.S.

MC 147844 (Sub-3), filed February 1, 1982. Applicant: RALPH L. BURRESS, P.O. Box 294, Dale, IN 47523. Representative: Lorna J. Granger, Marine Plaza, Suite 1330, 111 East Wisconsin Ave., Milwaukee, WI 53202, (414) 272–8550. Transporting *cabinets,* between points in the U.S., under contract(s) with Style-Line Mfg., Company, Inc., of West Allis, WI.

MC 152514 (Sub-1), filed February 1, 1982. Applicant: MOTOR ACTIVITIES, LTD., 860 Skokie Hwy., Lake Bluff, IL 60044. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602, (312) 726–6525. Transporting (A) *general commodities* (except classes A and B explosives, household goods and commodities in bulk), (1) between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (2) between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, those points in the US. west of ND, SD, NE, KS, OK, and TX, restricted in (A) above to the transportation of traffic having a prior or subsequent movement by rail; and (B) *such commodities* as are dealt in or used by grocery and drug stores, and industrial distributors (except commodities in bulk), between points in WI and IL, on the one hand, and, on the other, points in the U.S.

MC 152544 (Sub-12), filed February 1, 1982. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams St., Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202, (904) 623–2300. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in AL, FL, GA, and SC, 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 152664 (Sub-4), filed February 1, 1982. Applicant: TOMBIGBEE TRANSPORT CORPORATION, P.O. Box 412, Adamsville, TN 38103, (901) 526–4114. Transporting *plastics and plastic products,* between points in the U.S.

MC 152775 (Sub-3), filed January 29, 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 *metal products,* between New Orleans, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, TN and TX.

MC 154765 (Sub-3), filed February 2, 1982. Applicant: NORTHSTAR TRANSPORTATION, INC., 10951 Lakeview Ave., Lenexa, KS 66219. Representative: Stanley O. Wilson (same address as applicant), (913) 888–9800. 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 156695, filed February 1, 1982. Applicant: FURMAN & DAWES, INC., Rt. 3, Box 15–S, Stillwater, OK 74074. Representative: Danny L. Furman (same address as applicant), (405) 372–8249. Transporting *chemicals and related products,* between points in the U.S., under continuing contract(s) with Bretney Corp. of Kansas City, MO, Cosmetic Specialty Labs of Lawton, OK and Sasco Cosmetics of Dallas, TX.

MC 160355, filed February 1, 1982. Applicant: BROADBENT MERCANTILE, INC., 3540 Pine Ave., Long Beach, CA 90807. Representative: Vidma C. Willson (same address as applicant) (213) 424–2281. Transporting (1) *rubber and rubber products,* (2) *machinery,* (3) *building materials and supplies* and (4) *metal and metal products,* between points in CA, OR, TX and WA.

MC 160344, filed February 1, 1982. Applicant: RENTRITE HAULAGE CORP., 5 Dakota Dr., Lake Success, NY 10042. Representative: Carl L. Haderer, 18 Summit Ave., Montvale, NJ 07645, (201) 578–4530. Transporting *bakery products,* between points in the U.S., under continuing contract(s) with Entenmann's, Inc. of Bay Shore, NY.

MC 160365, filed February 1, 1982. Applicant: SAUGUS TRAVEL, INC., 314 Central St., Saugus, MA 01906. Representative: Daniel Pranka (same address as applicant) (617) 233–8192. As a *broker,* at Saugus, MA, in arranging for the transportation of *passengers and their baggage,* by motor vehicle, beginning at points in MA, and extending to points in the U.S.

MC 160374, filed February 2, 1982. Applicant: LEVESQUE'S AUTO SERVICE, INC., 771 Rodman St., Fall River, MA 02721. Representative: Brian T. Levesque, 72 Hezekiah St., Somerset, MA 02725, (617) 674–2942. Transporting *transportation equipment* in towaway service, between points in NY, NJ, and PA, on the one hand, and, on the other, points in MA, CT, RI, ME, NH, and VT.

MC 147185, filed December 4, 1981, previously noticed in the **Federal Register** issue of December 18, 1981. Applicant: STEVE FARRAR, P.O. Box 31, Waynesboro, MS 39367. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701, (601) 335–3576. Transporting (1) *oil field equipment and supplies,* and (2) *pipe,* between points in AL, AR, FL, LA, and MS.

Note.—This republication corrects the commodity description.

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Decided: February 5, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 2226 (Sub-118), filed January 29, 1982. Applicant: RED ARROW FREIGHT LINES, INC., 3901 Sequin Road, P.O. Box 1897, San Antonio, TX 78297. Representative: Arnold L. Burke, 180 North LaSalle Street, Suite 3520, Chicago, IL 60601, (312) 332–5106. Over regular routes, transporting *general commodities* (except classes A and B explosives), (1) Between Houston, TX and Huntsville, TX, over US Hwy. 75; (2) Between San Antonio, TX and Victoria, TX, over US Hwy. 87; (3) Between San Antonio, TX and Kenedy, TX, over US Hwy. 181; (4) Between Smithville, TX and Austin, TX, over US Hwy. 71; * (5) deleted intentionally; (6) Between Madisonville, TX and Houston, TX, over US Hwy. 75; (7) Between Fairfield, TX and Dallas, TX, from Fairfield, TX over US Hwy. 84 to Mexia, TX, then over TX Hwy. 14 to Richland, TX, then over US Hwy. 75 to Dallas, TX; (8) Between Waco, TX and Temple, TX, over US Hwy. 81; (9) Between Cameron, TX and Rogers, TX, over US Hwy. 190; (10) Between Waxahachie, TX and Dallas, TX, over US Hwy. 77; (11) Between Dallas, TX and Fort Worth, TX, over US Hwy. 80; (12) Between Dallas, TX and Fort Worth, TX, from Dallas, TX over TX Hwy. 114 to Grapevine, TX, then over TX Hwy. 121 to Fort Worth, TX, restricted against serving intermediate points; (13) Between Brownsville, TX and Beeville, TX, from Brownsville, TX over US Hwy. 83 to Pharr, TX, then over US Hwy. 281 to Alice, TX, then over TX Hwy. 44 to Corpus Christi, TX, then over US Hwy. 181 to Beeville, TX; (14) Between Brownsville, TX and Mission, TX; over US Hwy. 83; (15) Between Pharr, TX and Edinburg, TX, over US Hwy. 281; (16) Between Brownsville, TX and Houston, TX, from Brownsville, TX over US Hwy. 83 to Pharr, TX, then over US Hwy. 281 to Alice, TX, then over TX Hwy. 359 to Skidmore, TX, then over US Hwy. 181 to Beeville, TX, then over US Hwy. 59 to Houston, TX, restricted against serving intermediate points between Alice, TX and Skidmore, TX; (17) Between Houston, TX and LaGrange, TX, from Houston, TX over

US Hwy. 290 to its intersection with TX Hwy. 237, then over TX Hwy. 237 to its intersection with TX Hwy. 159, then over TX Hwy. 159 to LaGrange, TX, restricted to serving only the intermediate points of Park, TX, Rutersville, TX, Oldenburg, TX, Round Top, TX, and the off-route point of Fayetteville, TX; (18) Between Houston, TX and Victoria, TX, over US Hwy. 59; (19) Between Beeville, TX and Houston, TX, over US Hwy. 59, restricted against transporting shipments (A) originating at Victoria, TX, and destined to Houston, TX and intermediate points between Victoria, TX and Houston, TX, and (B) originating at Houston, TX and destined to Victoria, TX and intermediate points between Houston, TX and Victoria, TX; (20) Between San Antonia, TX and Luling, TX, from San Antonio, TX over US Hwy. 81 to San Marcos, TX, then over TX Hwy. 80 to Martindale, TX, then over US Hwy. 142 to Lockhart, TX, then over US Hwy. 183 to Luling, TX; (21) Between San Antonio, TX and Yoakum, TX, from San Antonio, TX over US Hwy. 81 to San Marcos, TX, then over TX Hwy. 80 to Luling, TX, then over US Hwy. 183 to Hochheim, TX, then over TX Hwy. 111 to Yoakum, TX; (22) Between Forth Worth, TX and Burleson, TX, over US Hwy. 81; (23) Between Hillsboro, TX and Mexia, TX, over TX Hwy. 171, restricted against transporting shipments (A) orginating at Dallas, TX and Fort Worth, TX and destined to Malone, TX, Hubbard, TX, Coolidge, TX, Tehuacana, TX and Mexia, TX, and (B) originating at Mexia, TX, Tehuacana, TX, Coolidge, TX, Hubbard, TX, Malone, TX and Hillsboro, TX and destined to Dallas, TX and Forth Worth, TX; (24) Between San Antonio, TX and Houston, TX, from San Antonio, TX over US Hwy. 90 to Seguin, TX, then over US Hwy. Alt. 90 to Gonzales, TX, then over TX Hwy. 97 to Waelder, TX, then over US Hwy. 90 to Columbus, TX, then over TX FM Hwy. 102 to Eagle Lake, TX, then over US Alt. 90 to Houston, TX, restricted against serving intermediate point;

(25) Between Seguin, TX and Waelder, TX, over US Hwy. 90, restricted against serving intermediate points; (26) Between Houston, TX and Rosenberg, TX, over US Hwy. Alt. 90; (27) Between Columbus TX, and San Antonio, TX,, from Columbus TX over US Hwy. 90 to Waelder, TX, then over TX Hwy. 97 to Gonzales, TX, then over US Hwy. Alt. 90 to Seguin, TX, then over Texas FM Hwy. 78 to San Antonio, TX; (28) Between Houston, TX and Madisonville, TX, over US Hwy. 75, restricted against serving intermediate points; (29) Between Coolidge, TX and Waco, TX, from Coolidge, TX over FM Hwy. 73 to Prairie Hill, TX, then over US Hwy. 84 to Waco, TX; (30) Between Wortham, TX and Kosse, TX, over TX Hwy. 14; (31) Between Autsin, TX and Schulenburg, TX, from Austin, TX over TX Hwy. 71 to LaGrange, TX, then over US Hwy. 77 to Schulenburg, TX restricted against transporting shipments (A) originating at Houston, TX and destined to LaGrange, TX, (B) originating at LaGrange, TX and destined to Houston, TX, (C) originating at Austin, TX and intermediate points between Austin, TX and Smithville, TX and destined to Bastrop, TX and Smithville, TX, and (D) originating at Bastrop, TX and Smithville, TX and destined to Austin, TX and intermediate points between Austin, TX and Smithville, TX; (32) Between Robstown, TX and Falfurrias, TX, from Robstown, TX over US Hwy. 77 to Riviera, TX, then over TX Hwy. 285 to Falfurrias, TX; (33) Between Falfurrias, TX and Ben Bolt, TX over US Hwy. 281; (34) Between Victoria, TX and Sinton, TX, over US Hwy. 77; (35) Between Kosse, TX and Bremond, TX, over TX Hwy. 14; (36) Between Gregory, TX and Rosenburg, TX from Gregory, TX over TX Hwy. 35 to West Columbia TX, then over TX Hwy. 36 to Rosenburg, TX, restricted aganist serving the intermediate points between Gregory, TX and Austwell, TX, but restricted against transporting shipments originating at Houston, TX and destined to Bay City, TX and West Columbia, TX; (37) Between Port Lavaca, TX and Victoria, TX, over US Hwy. 87; (38) Between the intersection of TX Hwy. 35 and TX Hwy. 172 and LaWard, TX, over TX Hwy. 172; (39) Between San Manuel, TX and Harlingen, TX, from San Manuel, TX over TX Hwy. 186 to Raymondville, TX, then over US Hwy. 77 to Harlingen, TX, restricted against serving the intermediate points of Raymondville, TX, Lyford, TX, Sebastian, TX and Combes, TX; (40) (A) Between Bremond, TX and LaGrange, TX, from Bremond, TX over TX Hwy. 6 to Hearne, TX, then over US Hwy. 79 to Rockdale, TX, then over US Hwy. 77 to LaGrange, TX, restricted against serving intermediate points, (B) Between Schulenburg, TX and Cuero, TX, from Schulenburg, TX over US Hwy. 77 to Hallettsville, TX, then over US Hwy. Alt. 77 to Cuero, TX, (C) Between Luling, TX and Cuero, TX over US Hwy. 183, restricted in (A), (B) and (C) against transporting shipments including interchange shipments between Dallas, TX, Forth Worth, TX, and Waco, TX, on the one hand, and, on the other, Austin, TX, Bastrop, TX, Houston, TX, San Antonio, TX, Seguin, TX and Smithville, TX; (41) Between Temple, TX and Rogers, TX, over US Hwy. 190; (42) Between Kingsville, TX and the intersection of TX Hwy 141. and US Hwy. 281, over TX Hwy. 141; (43) Between Ennis, TX and Waxahachie, TX over U.S. Hwy. 287; (44) Between Corsicana, TX and Hillsboro, TX over TX Hwy. 22; (45) Between Corpus Christi, TX and Flour Bluff, TX, (A) over Ocean Drive and (B) from Corpus Christi, TX, over South Staples Street to its intersection with Alameda Drive then over Alameda Drive to its intersection with Ocean Drive, then over Ocean Drive to Flour Bluff, TX; (46) Between Houston, TX and LaGrange, TX, from Houston, TX over US Hwy. 90 to Columbus, TX, then over TX Hwy. 71 to LaGrange, TX; (47) Between Austin, TX and Luling, TX, over US Hwy. 183; (48) Between Lockhart, TX and Bastrop, TX, from Lockhart, TX over TX FM Hwy. 20 to its intersection with TX Hwy. 71, then over TX Hwy 71 to Bstrop; (49) Between Fort Worth, TX, and the plantsite of the Consolidated Aircraft Corporation near Lake Worth, TX over US Highways, TX Highways, County Roads and City Streets; (50) Between Cuero, TX and the Brayton Flying Field, Inc. and/or Municipal Airport, over Cheapside Road; (51) Between San Antonio, TX and (A) Kelly Field, Duncan Field, and Camp Normoyle, over Frio City Road, (B) Brooks Field and San Antonio State Hospital over US Hwy. 181, (C) Randolph Field Over Texas FM Hwy. 78, (D) Texas Company Refinery over US Hwy. 81 and (E) United Gas Line Company over US Hwy. 87; (52) Between Austin, TX and CCC Camp MA–3–T, from Austin over US Hwy. 183 to Marshall Ford Dam Road, then over unnumbered county road to CCC Camp MA–3–T;

(53) Between Victoria, TX and Telferner Flying Field, over US Hwy. 59; (54) Between Oblate, TX and (A) Edinburg, TX over TX Hwy. 107, (B) Mission, TX over TX Hwy. 107 and (C) McAllen, TX over TX Hwy. 107 to its intersection with TX Hwy. 336, then over TX Hwy. 336 to McAllen, TX, also serving the off-route points of Monte Cristo, TX and Tri-Cities Airbase; (55) Between Harlingen, TX and US Air Corps Gunnery School, over Rio Hondo Road; (56) Between Houston, TX over US Highways, TX Highways, county roads and city streets, and (A) Deepwater, TX (B) Houston Ship Building Corporation at Irish Bend Island, (C) Shell Refinery, (D) Sinclair Refinery, (E) Pasadena, TX (F) Champion Paper & Fibert Company, (G) Houston Lighting & Power Company Deepwater Plant, (H) Crown Central Petroleum Company, (I) Phillips Petroleum Company, (J) Houston Pipe Line Company, (K) Horton & Horton

Docks and Ship Yards, (L) Sherfield Steel Plant, (M) Ordnance Depot, (N) US Steel and its subsidiaries, (O) Tennessee Coal and Iron Corporation, (P) American Steel and Wire Company, (Q) Morgan Line Docks, (R) Gulf Portland Cement Company, (S) National Tube and Pipe Yard, (T) Gulf Compress, (U) Mayo's Shell Yard, (V) John Young's Shell Yard, (W) Galena Park, TX, (X) American Liberty Pipe Line Company, (Y) Gulf Company Galena Refinery, (Z) General American Tank Storage & Terminal Company, (AA) Texas Company Refinery, (BB) Texas Pipe Line Company, (CC) Galena Signal Oil Company, (DD) Houston Oil Company Galena Refinery, (EE) Maritime Oil Company, (FF) American Petroleum Company, (GG) Haden Lime Plant, (HH) Union Bridge and Construction Company, (II) Channelview, TX, (JJ) The Industry Oil County Specialties Company, (KK) Lincoln Tank Company, (LL) Lowry Oil Tools Company, (MM) York Oil Field Supply Company, (NN) McCullough Tool Company, (OO) Hydril Tool Company, (PP) Mayes Brothers, (QQ) Old Southern Motors Plant (Southern Aircraft Corporations), (RR) Southern Acid & Sulphur Company, (SS) Hake Tool Company, (TT) General Metals Corporation, (UU) Pittsburg Plate Glass Company, (VV) Industrial Engineering Company, (WW) Municipal Airport, (XX) Emsco Derrick and Equipment Company, (YY) Houston Textile Mills, (ZZ) Mission Manufacturing Company, (AAA) McMurray Refinery, (BBB) Williams Brothers, (CCC) Spencer Hardware Company, (DDD) Watson Brothers Variety Store and (EEE) Texas Cresote Company; (57) Between Ganado TX and LaWard, TX, over Texas Hwy. 172; (58) Between LaWard, TX and Lolita, TX, over Texas FM Hwy. 616; (59) Between Waco, TX over US Highways, TX Highways, county roads and city streets and (a) the new Airport, (B) Owens-Illinois Glass Plant, (C) Veteran's Hospital, (D) Beverly Hills, TX, (E) Borden Plant, (F) Municipal Airport, and (G) Bosqueville, TX; (60) Between San Antonio, TX, over US Highways, TX Highways, county roads and city streets, and (A) William K. Holt Machinery Company, (B) Camp Bullis, TX, (C) Camp Stanley, TX, (D) Leon Springs, TX, (E) United Gas Pipe Line Company and (F) San Antonio Municipal Airport; (61) Between Austin, TX and the plantsite of the Magnesium Plant, from Austin, TX over US Hwy. 183 to unnumbered county road, then over unnumbered county road to the plantsite Magnesium Plant; (62) Between Bastrop, TX and Camp Swift, TX, over TX Hwy. 95; (63) Between Fort Worth, TX and the plantsite of Globe Aircraft Corporation, over US Hwy. 81; (64) Between Waco, TX and the plantsite of Bluebonnet Ordnance Plant, from Waco, TX over US Hwy. 84 to McGregor, TX, then over Texas Hwy. 317 to the plantsite of the Bluebonnet Ordnance Plant; (65) Between Kingsville, TX and Naval Air Station P–4, over unnumbered county road; (66) Between Temple, TX and Temple Municipal Airport, over Texas Hwy. 36; (67) Between Alice, TX and Alice Municipal Airport, over US Hwy. 59; (68) Between Beeville, TX and Beeville Municipal Airport, over Texas Hwy. 202; (69) Between San Marcos, TX and San Marcos Flying Field, over US Hwy. 81; (70) Between Cuero, TX and Goliad, TX, over US Hwy. 183; (71) Between Corpus Christi, TX and all industrial sites and plants located within a ten-mile radius of the corporate limits of Corpus Christi, TX; (72) Between Harlingen, TX and San Benito, TX, over US Hwys. 77 and 83; (73) Between Waco, TX LaGrange, TX, over US Hwy. 77, restricted against transporting shipments (A) between Waco, TX, on the one hand, and, on the other, Rockdale, TX and intermediate points between Waco, TX and Rockdale, TX and (B) between intermediate points located between Waco, TX and Rockdale, TX; (74) Between Hillsboro, TX and Waco, TX, over US Hwy 81, restricted against serving intermediate points; (75) Between Austin, TX and Temple, TX, over US Hwy. 81, restricted against serving intermediate points; (76) Between Austin, TX and San Marcos, TX, over US Hwy. 81, restricted against serving intermediate points; (77) Between Waco, TX and Hillsboro, TX, over US Hwy. 77, restricted against serving intermediate points; (78) Between Hillsboro, TX and Waxahachie, TX, over US Hwy. 77, restricted against serving intermediate points; (79) Between Hillsboro, TX and Burleson, TX, over US Hwy. 81, restricted against serving intermediate points; (80) Between Brenham, TX and Cameron, TX, over TX Hy, 36, serving Brenham as a point of joinder only and restricted against serving intermediate points; (81) Between Temple, TX and Fort Hood, TX, over US Hwy. 190, restricted against serving intermediate points; (82) Between Madisonville, TX and Richland, TX, over US Hwy. 75; (83) Between Dew, TX and Teague, TX, over TX Hwy. 179; (84) Between Victoria, TX and E. I. DuPont Plant, over TX FM Hwy, 404 and unnumbered County roads; (85) Between Waco, TX and Belton, TX, from Waco, TX over US Hwy. 84 to McGregor, TX, then over TX Hwy. 317 to Belton, TX, restricted against serving intermediate points; (86) Between Temple, TX and the intersection of TX Hwy. 36 and TX Hwy, 317, over TX Hwy. 36, serving the intersection of TX Hwy 36 and TX Hwy. 317 as a point of joinder only and restricted against serving intermedate points; (87) Between Goliad, TX and Refugio, TX, over US Hwy. 183, restricted against serving intermediate points; (88) Between Victoria, TX and Helen Gohlke Field, from Victoria, TX over TX FM 295 to Fordtran, TX, then over unnumbered county road to Helen Gohike Field; (89) Between Port Isabel, TX and the intersection of TX Hwy. 100 and U.S. Hwy. 77, over TX Hwy. 100; (90) Between Harlingen, TX and Edinburg, TX, from Harlingen, TX over US Hwy. 77 to Primera Road, then over Primera Road to Primera, TX, then over Wilson Road to its intersection with TX Hwy. 107, then over TX Hwy. 107 to Edinburg, TX; (91) Between Rockdale, TX and Sandow, TX, (A) from Rockdale over US Hwy. 77 and unnumbered county road to Sandow, TX and (B) from Rockdale, TX over US Hwy. 79 and unnumbered county road to Sandow, TX, restricted in (A) and (B) to serving only the intermediate plantsites of (1) Aluminum Company of America, (2) McAlester Fuel Company, (3) Lignite Mines and (4) Texas Power and Light Company; (92) Between Fort Worth, TX and Waxahachie, TX, over US Hwy. 287, restricted against serving intermediate points; (93) Between Long Mott, TX and E. I. DuPont Plant, from Long Mott, TX over Texas Hwy. 185 to its intersection with TX FM Hwy. 404 to E. I. DuPont Plant, restricted to serving only the intermediate plantsites of Carbide and Carbon Chemicals Corporation and United Carbon and Carbide; (94) Between Calallen, TX and Central Power & Light Company Lon Hill Plant, over Texas Hwy. 9, restricted against serving intermediate points; (95) Between Brownsville, TX and Port Isabel, TX, over TX Hwy. 48; (96) Between Port Lavaca, TX and Port O'Connor, TX, from Port Lavaca, TX over TX Hwy. 238 to its intersection with TX Hwy. 185, then over TX Hwy. 185 to Port O'Connor, TX; (97) Between Long Mott, TX and Port O'Connor, TX, over TX Hwy. 185; (98) Between the intersection of TX FM Hwy. 1289 and TX Hwy. 238 and Port O'Connor, TX, from the intersection of TX FM Hwy. 1289 and TX Hwy. 238 over TX FM Hwy. 1289 to its intersection with TX Hwy. 185, then over TX Hwy. 185 to Port O'Connor, TX; (99) Between Beeville, TX and Kenedy, TX; over US Hwy. 181,

restricted against serving intermediate points; (100) Between Corpus Christi, TX and Tivoli, TX, over TX Hwy. 35; (101) Between San Marcos, TX and Karnes City, TX, over TX Hwy. 123, restricted to serving only the intermediate points of Seguin, TX and Stockdale, TX; (102) Between Hallettsville, TX and Victoria, TX, over US Hwy. 77, restricted against serving intermediate points; (103) Between Austin, TX and the plantsites of Adams Extract Company and Carnation Company, over US Hwy. 81; (104) Between Dallas, TX and Fort Worth, TX, over (A) TX Hwy. 183 and (B) TX Hwy. 356; (105) Between Houston, TX and Lynchburg, TX, from Houston, TX over TX Hwy. 235 to its intersection of TX Hwy. 134, then over TX Hwy. 134 to Lynchburg, TX, restricted to serving only the intermediate plantsites of Celanese Corporation of America and W. M Kellogg Company; (106) Between Harlingen, TX and the intersection of US Hwy. 77 and TX FM Hwy. 510, from Harlingen, TX over TX FM Hwy. 106 to Rio Hondo, TX, then over TX FM Hwy. 803 to its intersection with TX FM Hwy. 510, then over TX FM Hwy. 510 to its intersection with US Hwy. 77, restricted to serving only the intermediate point of the Naval Auxilary Landing Field; (107) Between Goliad, TX and Kenedy, TX, over TX Hwy. 239, restricted against serving intermediate points; (108) Between San Antonio, TX and Medina Air Force Base, over TX Loop Hwy. 13; (109) Between San Antonio, TX and Alice, TX, over US Hwy. 281, restricted against serving intermediate points; (110) Between San Antonio, TX and Corpus Christi, TX, from San Antonio, TX over US Hwy. 281 to its intersection with TX Hwy. 9, then over TX Hwy. 9 to Corpus Christi, TX, restricted against serving intermediate points; (111) Between Dallas, TX and Fort Worth, TX, over Interstate Hwy. 30; (112) Between Conroe, TX and Youens, TX, from Conroe, TX over TX Hwy. 105 to its intersection with TX FM Hwy. 1485, then over TX FM Hwy. 1485 to Youens, TX, also serving the off-route plantsites of Gulf Oil Corporation and Columbian Carbon Company; (113) Between El Campo, TX and the intersection of TX Hwy. 71 and TX Hwy. 35, over TX Hwy. 71; (114) Between Columbus, TX and El Campo, TX, over TX Hwy. 71, restricted against serving intermediate points; (115) Between Midfield, TX and Edna, TX, over TX Hwy. 111, restricted against serving intermediate points; (116) Between Kingsville, TX and the King Ranch Gas Plant of the Humble Oil & Refinery Company, over TX Hwy. 141; (117) Between the intersection of TX FM Hwy. 791 and US Hwy. 181 and the plantsite of Susquehanna Western, from the intersection of TX FM Hwy. 791 and US Hwy. 181, over TX FM Hwy. 791 to its intersection with unnumbered county road, then over unnumbered county road to the plantsite of Susquehanna Western, restricted against serving intermediate points; (118) Between New Braunfels, TX and Seguin, TX, over TX Hwy. 46, restricted against serving intermediate points; (119) Between Bay City, TX and the plantsite of Celanese Company over Heubner Road, restricted against serving intermediate points; (120) Between Houston, TX and the National Aeronautics and Space Administration Manned Spacecraft Center, from Houston, TX over US Hwy. 75 to its intersection with TX NASA Hwy. 1, then over TX NASA Hwy. 1 to the National Aeronautics and Space Administration Manned Spacecraft Center, restricted against serving intermediate points; (121) Between Houston, TX and West Columbia, TX, from Houston, TX over TX Hwy. 288 to Angleton, TX, then over TX Hwy. 35 to West Columbia, TX, serving West Columbia, TX as a point of joinder only and restricted against serving intermediate points; (122) Between Corsicana, TX and the intersection of TX Hwy. 31 and US Hwy. 84, over TX Hwy. 31, restricted to serving only the intermediate point of Hubbard, TX; (123) Between Brenham, TX and Bay City, TX, from Brenham, TX over TX Hwy. 36 to Wallis, TX, then over TX Hwy. 60 to Bay City, TX, serving Brenham, TX as a point of joinder only and restricted against serving intermediate points; (124) Between Austin, TX and Palestine, TX, from Austin, TX over US Hwy. 81 to Round Rock, TX, then over US Hwy. 79 to Palestine, TX, restricted against serving intermediate points; (125) Between Huntsville, TX and (A) Shiro, TX, over TX Hwy. 30, (B) Oakhurst, TX over US Hwy. 190, and (C) Corsicana, TX, from Huntsville, TX over TX Hwy. 19 to Palestine, TX, then over US Hwy. 287 to Corsicana, TX; (126) Between Trinity, TX and Groveton, TX, over TX Hwy. 94; (127) Between Crockett, TX and Midway, TX, over TX Hwy. 21; (128) Between Midway, TX and Madisonville, TX, over TX Hwy. 21, restricted against serving intermediate points; (129) Between Palestine, TX and Waco, TX, from Palestine, TX over US Hwy. 84 to Mexia, TX, then over TX Hwy. 171 to Coolidge TX, then over TX FM Hwy. 73 to Prairie Hill, TX, then over US Hwy 84 to Waco, TX; (130) Between Lovelady, TX and Eastham Farm of the Texas Prison System, from Lovelady, TX over TX FM, Hwy. 230 to Weldon, TX, then over unnumbered county road to Eastham Farm of the Texas Prison System; (131) Between Trinity, TX and Weldon, TX, over TX FM Hwy. 1893; (132) Between Fairfield, TX and Big Brown Steam Electric Station, from Fairfield, TX over (A) US Hwy. 84 and (B) TX FM Hwy. 488 to their intersections with TX FM Hwy. 1124, then over TX FM Hwy. 1124 to its intersection with County Road 25, then over County Road 25 to its intersection with County Road 30, then over County Road 30 to Big Brown Steam Electric Station; (133) Between Dallas, TX and Longview, TX, over Interstate Hwy. 20, restricted against serving the intermediate point of Terrell, TX and the intermediate points between Dallas, TX and Terrell, TX, transporting shipments between Dallas, TX and Terrell, TX; (134) Between Tyler, TX and (A) the intersection of US Hwy. 69 and Interstate Hwy. 20, over US Hwy 69 and (B) the intersection of US Hwy. 271 and Interstate Hwy. 20, over US Hwy. 271; (135) Between Kilgore, TX and (A) the intersection of TX Hwy. 135, and Interstate Hwy. 20 over TX Hwy. 135 (B) the intersection of TX Hwy. 42, and Interstate Hwy. 20, over TX Hwy. 42 and (C) the intersection of US Hwy. 259 and Interstate Hwy. 20, over US Hwy. 259; (136) Between Tyler, TX and Corsicana, TX, over TX Hwy. 31, restricted against serving intermediate points; (137) Between Athens, TX and Palestine, TX, over TX Hwy. 19, serving Athens as a point of joinder only and restricted against serving intermediate points; (138) Between Tyler, TX and Palestine, TX, over TX Hwy. 155, restricted against serving intermediate points; (139) (A) Between San Antonio, TX and Fort Worth, TX, from San Antonio, TX over Interstate Hwy. 35 to its intersection with Interstate Hwy. 35W, then over Interstate Hwy. 35W to Fort Worth, TX, (B) Between San Antonio, TX and Dallas, TX, from San Antonio, TX over Interstate Hwy. 35 to its intersection with Interstate Hwy. 35E, then over Interstate Hwy. 35E to Dallas, TX, (C) Between Dallas, TX and Houston, TX, over Interstate Hwy. 45, (D) Between San Antonio, TX and Houston, TX, over Interstate Hwy. 10, and (E) Between San Antonio, TX and Corpus Christi, TX, over Interstate Hwy. 37, restricted in (A) through (E) to serving intermediate points to which service is presently authorized; (140) Between Olmito, TX and the intersection of TX FM Hwy. 511 and TX Hwy. 48, over TX FM Hwy. 511; (141) Between Seguin, TX and the plantsite of Motorola, Inc., over TX Hwy. 123, restricted against serving intermediate points; (142) Between

Palestine, TX and the plantsite of Aluminum Company of America, over US Hwy. 79, restricted against serving intermediate points; (143) Between Houston, TX and the plantsite of Western Electric Corporation, from Houston, TX over Interstate 10 to its intersection with Mason Road, then over Mason Road to the plantsite of Western Electric Corporation; (144) Between Bay City, TX and the South Texas Nuclear Power Plant (A) from Bay City, TX over TX Hwy. 60 to Wadsworth, TX, then over TX FM Hwy. 521 to the South Texas Nuclear Power Plant, restricted to serving only the intermediate points located on TX FM Hwy. 521, and (B) from Bay City, TX over TX Hwy. 60 to its intersection with TX FM Hwy. 2668, then over TX FM Hwy. 2668 to its intersection with TX FM Hwy. 521, then over TX FM Hwy. 521 to the South Texas Nuclear Power Plant; (145) Between the South Texas Nuclear Power Plant and the intersection of TX FM Hwy. 521 and TX Hwy. 35, over TX FM Hwy. 521; (146) Between Fort Worth, TX and Abilene, TX (A) from Fort Worth, TX over Interstate Hwy. 30 to its intersection with Interstate Hwy. 20, then over Interstate Hwy. 20 to Abiline TX, and (B) over Interstate Hwy. 20, restricted in (A) and (B) against serving intermediate points; (147) Between the Limestone Electric Generating Station and (A) Mexia, TX, over TX FM Hwy. 39, (B) Centerville, TX, from the Limestone Electric Generating Station over TX FM Hwy. 39 to Robbins, TX, then over TX Hwy. 7 to Centerville, TX, (C) Groesbeck, TX from the Limestone Electric Generating Station over TX FM Hwy. 39 to Personville, TX, then over TX Hwy. 164 to Groesbeck, TX, (D) Teague, TX, over TX FM Hwy. 80, and (E) Buffalo, TX, from Limestone Electric Generating Station over TX FM Hwy. 80 to Donnie, TX, then over TX Hwy. 164 to Buffalo, TX, restricted in (A) through (E) against serving intermediate points. Condition: Issuance of a certificate in this proceeding is subject to prior to coincidental cancellation, at applicant's written request, of its Certificates of Registration in MC 2226 Sub Nos. 94, 100, 102, 106, 107, 109, 111, 112, 116, and 117.

Note.—The purpose of this application is to convert applicant's presently held Certificates of Registration to Certificates of Public Convenience and Necessity. Applicanat intends to continue tacking the involved authority with other authority it presently holds.

MC 111936 (Sub-32), filed January 29, 1982. Applicant: MURROW'S TRANSFER, INC., P.O. Box 4094, High Point, NC 27263. Representative: Wilmer B. Hill, 805 McLachlen Bank Bldg., 666 11th St., NW, Washington, DC 20001, (202) 628–9243. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, FL, GA, IL, IN, KY, MD, MI, NC, OH, SC, TN, VA, WV, WI, and DC.

MC 123476 (Sub-77), filed February 1, 1982. Applicant: CURTIS TRANSPORT, INC., P.O. Box 427, Arnold, MO 63010. Representative: David G. Dimit (same address as applicant), (314) 464–1300. Transporting *rubber and plastic products*, between points in St. Louis County, MO, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 123916 (Sub-21), filed February 1, 1982. Applicant: GROVE CITY BUS LINES, INC., P.O. Box 31, Grove City, PA 16127. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471–1800. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter and special operations, beginning and ending at points in FL, and extending to points in the U.S., including AK, but excluding HI.

MC 136636 (Sub-9), filed January 28, 1982. Applicant: AMERICAN CONTINENTAL TRANSPORT, INC., Route 1, Chebanse, IL 60922. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068, (312) 698–2235. Transporting *metal products, machinery, and lumber and wood products*, between points in DeKalb and Woodford Counties, IL, Walworth County, WI, and Poweshiek County, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138736 (Sub-17), filed January 29, 1982. Applicant: FBM TRUCKING, INC., P.O. Box 513, Hwy. 54 E, Fayetteville, GA 30214. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237, (404) 477–1525. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of juvenile products, between Los Angeles, CA, on the one hand, on the other, points in the U.S. (except AK and HI).

MC 156536 (Sub-1), filed January 28, 1982. Applicant: RISER TRANSPORTATION, INC., Rt. 4, Box 2, Keithville, LA 71047. Representative: Raymond R. Riser (same address as applicant), (318) 925–9079. Transporting *liquefied petroleum products*, between points in the U.S., under continuing contract(s) with Trio Energy Company, of Shreveport, LA.

MC 160116, filed January 29, 1982. Applicant: CT TRANSPORTATION, INC., a division of CARBO THERM, LTD., 3955 High St., Denver, CO 80205. Representative: Nancy P. Bigbee, 745 E. 18th Ave., #101, Denver, CO 80203, (303) 839–0057. Transporting (1) *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Rustco Products Co., of Denver, CO; (2) *machinery*, between points in the U.S., under continuing contract(s) with Murray Equipment Company, of Denver, CO; and (3) *carbon dioxide*, between points in the U.S., under continuing contract(s) with Carbo Therm, Ltd., of Denver, CO.

Volume No. OP4–42

Decided: February 4, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 146927 (Sub-27), filed January 29, 1982. Applicant: DIXIE TRANSPORT, INC., P.O. Box 1126, Hattiesburg, MS 39401. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210, (703) 525–4050. Transporting *paper and paper products*, between points in the U.S.

MC 155667, filed February 1, 1982. Applicant: STEWART CARTAGE CO., 61 S. Mitchell Court, Addison, IL 60101. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298–1094. Transporting *printed matter*, between points in the U.S., under continuing contract(s) with R. R. Donnelley & Sons Company, Chicago, IL.

MC 159217, filed February 1, 1982. Applicant: DOCKSIDE LINEMEN, INC., P.O. Box 4250, New Orleans, LA 70178. Representative: Jo E. Konneker, P.O. Box 1955, Kenner, LA 70063, (504) 469–9483. Transporting *machinery* and *such commodities* as are used on ships, between New Orleans, LA, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, TN, and TX.

MC 160247, filed January 25, 1982. Applicant: L.A. TRUCKING AND MOVING SERVICES CO., 2181 E. 25th St., Vernon, CA 90058. Representative: Rudy Cortez (same address as applicant), (213) 582–1757. Transporting *furniture and upholstery*, between points in the U.S., under continuing contract(s) with Sheffield Chair Co., of Vernon, CA.

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Decided: February 9, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 61396 (Sub-398), filed January 29, 1982. Applicant: HERMAN BROS., INC., P.O. Box 189, Omaha, NE 68101. Representative: Jack L. Shultz, P.O. Box

82028, Lincoln, NE 68501, (402) 475–6761. Transporting *liquid argon, liquid oxygen, liquid nitrogen,* and *compressed gases,* between points in the U.S.

MC 93586 (Sub-4), filed February 1, 1982. Applicant: LOREN O. THOMAS d.b.a. LOREN THOMAS & SONS, Route 3, New Richmond, WI 54017. Representative: Stephen F. Grinnell, 1600 TCF Tower, Minneapolis, MN 55402, (612) 333–1341. Transporting *dry bulk fertilizer,* between Minneapolis, MN, and points in Dakota and Winona Counties, MN, on the one hand, and, on the other, points in St. Croix County, WI.

MC 143776 (Sub-42), filed February 1, 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 *plastic film and sheeting,* between points in the U.S., under continuing contract(s) with Borden Chemical Company, Division of Borden, Incorporated, of N. Andover, MA.

MC 151736 (Sub-2), filed October 13, 1981, previously noticed in the **Federal Register** issue of October 30, 1981, and republished this issue. Applicant: MANCHESTER MOVERS, INC., 85 Colonial Rd., Manchester, CT 06040. Representative: Frank N. Serignese (same address as applicant), (203) 646–3333. Transporting *household goods,* between points in CT, KY, MI, IL, IN, TN, AL, and OH.

Note.—The purpose of this republication is to include the state of KY previously omitted in the **Federal Register.**

MC 154986 (Sub-1), filed February 1, 1982. Applicant: DIRECT LINES, INC., 302 Hawthorne Dr., Effingham, IL 62401. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701 (217) 544–5468. Transporting *printed matter,* between points in Effingham, Jefferson, Randolph and Marion Countries, IL, on the one hand, and, on the other, points in the U.S.

MC 158896, filed February 1, 1982. Applicant: TENNESSEE TRUCK SERVICE, INC., P.O. Box 181067, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103 (901) 526–4114. Transporting *insulation and wire products,* between points in Cuyahoga County, OH, and Shelby County, TN, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, LA, MS, MO, OH, TN, TX, and WV.

MC 159946 (Sub-1), filed February 1, 1982. Applicant: DARWIN D. COOK AND JACK KIDD, JR. d.b.a. KIDD COOK CARRIERS, 1814 E. Mead, Union Gap, WA 98903. Representative: Lawrence V. Smart, Jr., 419 NW 23rd Ave., Portland, OR 97210 (503) 226–3755. Transporting *food and related products,* between points in Whatcom and Skagit Counties, WA, on the one hand, and, on the other, points in CA.

MC 160286, filed February 1, 1982. Applicant: GRAY WAYNE RUSHING, d.b.a. CHUCKWAGON TRUCKING CO., P.O. Box 542, Cold Springs, TX 77331. Representative: Claude W. Ferebee, 3910 F.M. 1960 W., Suite 106 Houston, TX 77068 (713) 537–8156. Transporting *construction equipment, materials and supplies,* between the facilities used by UMC, Inc., at points in the U.S. on the one hand, and, on the other, points in the U.S.

MC 160336, filed January 29, 1982. Applicant: ROY H. WINSLOW, 828 So. 500 East #5, Salt Lake City, UT 84102. Representative: Roy H. Winslow (same address as appliant) (801) 521–0558. Transporting *machinery, between points in the U.S., under continuing contract(s) with Wheeler Machinery Co., of Salt Lake City, UT, ICM Equipment Sales & Rental, of Salt Lake City, UT, Lakeshore Inc., of Murray, UT, Santa Fe Equipment Co., of N. Salt Lake, UT, and Gilbert Western Corp., of Salt Lake City, UT.*

MC 160346, filed February 1, 1982. Applicant: HAMMOCK MOVING & STORAGE CO., 5 Mall Terrance, Oglethorpe Commercial Park, Savannah, GA 31406. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229 (804) 282–3809. Transporting *household goods, furniture and fixtures,* between points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV, and DC.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–3983 Filed 2–12–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 231]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: February 9, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 8575 (Sub-9)X, filed February 1, 1982. Applicant: FERGUSON VAN LINES, INC., 3999 Erie Ave., Cincinnati, OH 45208. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036. Sub-7 certificate, broaden household goods to "household goods, and furniture and fixtures."

MC 7971 (Sub-1)X, filed January 25, 1982. Applicant: AMERICAN SECURITY VAN LINES, INC., 1824 Briarwood Industrial Ct., N.E., Atlanta, GA 30329. Representative: Thomas R. Kingsley, 10614 Amherst Ave., Silver Spring, MD 20902. Lead and Subs 8 and 9G certificates: broaden to (A)(1) "household goods and furniture and fixtures, and materials, equipment and supplies used in the manufacture, sale and distribution of furniture and fixtures," from household goods, all Subs; and (2) "food and related products, printed matter, furniture and fuxtures, and miscellaneous products of manufacturing" from bakery goods, advertising matter, and display racks, lead; (B) county-wide authority: (1)(a) Atlanta, GA, and points within 135 miles thereof (points in GA in and north of Richmond, Burke, Jefferson, Johnson, Laurens, Dodge, Wilcox, Crisp, Lee, Terrell, Randolph and Quitman Counties; points in AL in and east of Barbour, Bullock, Montgomery, Elmore, Coosa, Shelby, Jefferson, Blount, Marshall and Jackson Counties; points in TN in and south of Lincoln, Moore, Coffee, Warren, White, Cumberland, Morgan, Anderson, Knox, Sevier, and

Cocke Counties; and points in SC in and west of Greenville, Laurens, Saluda, Edgefield and Aiken Counties, lead; and (b) Jersey City, Newark, Paterson and Perth Amboy, NJ, and Mt. Vernon, NY (Bergen, Essex, Hudson, Middlesex, Monmouth, Morris, Passaic, and Union Counties, NJ, and Bronx, New York and Westchester Counties, NY), lead; and (2) Fort Smith, AR (Crawford and Sebastian Counties, AR, and Le Flore and Sequoyah Counties, OK, Sub 8; and (C) radial authority between New York, NY, and counties in NJ and NY, lead.

MC 110581 (Sub-10)X, filed January 27, 1982. Applicant: G & H MOTOR FREIGHT LINES, INC., 118 S.E. Jackson Street, Greenfield, IA 50849. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. Lead and Subs 4 and 7: (1) broaden general commodities (with exceptions) to "general commodities (except classes A and B explosives)", lead and Subs 4 and 7, and new furniture, batteries, lubricating oils and greases, in containers, and packinghouse products to "furniture and fixtures, electrical machinery or equipment or supplies, petroleum or coal products, and food and related products," Sub 4; (2) change one-way regular route authority to two-way authority, Sub 4, and allow service at all intermediate points, lead and Subs 4 and 7; (3) change off-route points (regular routes) to counties: Orient and Bridgewater, IA (Adair County) and Massena, IA (Cass County), lead; and Cumberland, Griswold, and Massena, IA (Cass County) and Bridgewater, IA (Adair County), Sub 4; and (4) broaden Greenfield, IA and points within 25 miles of Greenfield (irregular route) to Adair, Madison, Dallas, Guthrie, Audubon, Cass, Adams, and Union Counties, IA, Sub 4.

MC 35320 (Sub-664)X, filed February 1, 1982. Applicant T.I.M.E.-DC, Inc., 2598 74th Street, P.O. Box 2550 Lubbock, TX 79408. Representative: John T. Coon (same address as applicant). Sub 135: (1) broaden general commodities (with exception) to "general commodities (except Classes A and B explosives)"; and (2) allow service at all intermediate points (except alternate routes); and (3) eliminate the territorial restriction requiring that traffic moving from, to or through Cincinnati, OH.

MC 114949 (Sub-6)X, filed January 26, 1982. Applicant: T & E TRUCKING, INC., P.O. Box 342, Clarksville, VA 23927. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048-0640. Sub 5 permit, broaden: (1) from lumber and pallets to "lumber and wood products, pulp paper and related products, rubber and plastic products, metal products and machinery" and from lumber to "lumber and wood products", (2) remove exception of plywood, and (3) to "between points in the United States" with unnamed shippers in the first part and named shippers in parts 2 & 3.

MC 120981 (Sub-39)X, filed January 29, 1982. Applicant: BESTWAY EXPRESS, INC., 520 Lester Ave., Nashville, TN 37210. Representative: George M. Catlett, Suite 700-702, McClure Bldg., Frankfort, KY 40610. Subs 2, 5, 10, 12, 16, 20, 22, 23, 27F, 29F, 30F, 31F, and 32F certificates: (A) broaden to all intermediate points on its regular routes, Subs 2, 5, 10, 12, 16, 22 (part 1), 23, 27F (part 1), 29F (part 1), and 32F (part 1); (B) remove (1) restriction prohibiting or limiting service to the transportation of traffic (a) between from or to named points, Subs 2, 5, and 22 (part 1); (b) originating at, destined to, or interchanged at named points, Subs 2, 12, 22 (part 2), and 23; (2 plantsite restriction, Subs 20 and 30F; and (3) joinder restriction, Subs 2 and 29F; and (C) broaden off-route point to county-wide authority; Madison County, MS (facilities-Canton), Sub 31F.

MC 143502 (Sub-2)X, filed January 26, 1982. Applicant: G & M AUTO COMPANY, INC., 7224 Euclid Ave., Cleveland, OH 44103. Representative: Andrew J. Burkholder, 275 East State St., Columbus, OH 53215. Lead and Sub 1, remove restrictions requiring use of wrecker equipment only and broaden from wrecked, disabled and repossessed motor vehicles except trailers designed to be drawn by passenger automobiles and replacement vehicles for wrecked or disabled motor vehicles for wrecked or disabled motor vehicles (except trailers designed to be drawn by passenger automobiles) "transportation equipment."

MC 146561 (Sub-4)X, filed February 3, 1982. Applicant: L.M.T., INC. 15005 Faulkner Road, Santa Paula, CA 93060. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Sub 3F certificate, broaden to "(1) food and related products, (2) materials, equipment and supplies used in the manufacture and distribution of such commodities," from foodstuffs, and materials, equipment and supplies.

MC 147201 (Sub-3)X, filed January 28, 1982. Applicant: MARLOR ENTERPRISES, LTD., 17-1583 Pemberton St., N. Vancouver, BC, Canada V7P2S4. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. No. MC-147201 (Sub-2F) certificate and No. MC-145099 (Sub-3F) permit: broaden to (1)(a) "ores and minerals" from chicoite, Sub 2F, and (b) "petroleum, natural gas, and their products" from pipe coating, Sub 3F; (2) county-wide authority: Kern County, CA (facilities-Taft and McKittrick), Sub 2F; and, (3) between points in the U.S., under continuing contract(s) with a named shipper, Sub 3F.

MC 150294 (Sub-5)X, filed February 1, 1982. Applicant: CORBIN TRUCKING CO., INC., R. R. No 2, Manhattan, IL 60442. Representative: Abraham A. Diamond, 29 South La Salle Street, Chicago, IL 60603. Subs 1 and 2. Sub 1, broaden equipment, materials and supplies used in the construction, relocation, maintenance or repair of pipe lines, pipe line facilities or refineries, to "such commodities as are used in the construction, relocation, maintenance or repair of pipe lines, pipe line facilities or refineries"; and Joliet facility to Will County, IL; Sub 2, broaden steel and metal products to "metal products", and Bensenville and Schaumburg facilities to Cook and Du Page Counties, IL.

MC 151316 (Sub-4)X, filed February 3, 1982. Applicant: AERO DISTRIBUTING CO., INC., 60 NW 37th St., Miami, FL 33127. Representative: Mark S. Gray, 235 Peachtree St. NE, Atlanta, GA 30303. MC 142668 Sub-Nos. 7F, 13F, 18F, 20F, 21F permits: broaden beetwen points in the U.S. (except AK & HI) under continuing contract(s) with named shippers in all Subs.

MC 153034 (Sub-2)X, filed February 1, 1982. Applicant: L.C.W. TRANSPORTATION SERVICE, INC., 119 E. Chavez, Edinburg, TX 78539. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. Sub 1 permit, broaden: (1) paper and paper products, and corrugated paper sheets, to "pulp, paper and related products", and materials, equipment and supplies used in the manufacture thereof"; (2) to between points in the U.S. under continuing contract(s) with named shippers.

[FR Doc. 82-3982 Filed 2-12-82; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions,

the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than February 26, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 8th day of February 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Fisher Controls International, Inc., Coraopolis Plant (USWA).	Coraopolis, Pa	1/25/82	1/22/82	TA-W-13,197	Valves—butterfly, industrial.
G & M Fashions (ILGWU)	Newark, N.J	1/29/82	1/25/82	TA-W-13,198	Raincoats—ladies.
Jones & Laughlin Steel Corp. (USWA)	Louisville, Ohio	1/19/82	1/11/82	TA-W-13,199	Sheet and coils, steel—stainless.
National Garment Co. (company)	Hammonton, N.J	1/28/82	1/22/82	TA-W-13,200	Blazers and suits—ladies.
Phelps Dodge Corp. (USWA)	Morenci, Ariz	2/3/82	1/28/82	TA-W-13,201	Copper—mine, concentrate and smelter.
Roanoke Dress Corp. (workers)	Roanoke, Va	1/29/82	1/22/82	TA-W-13,202	Dresses, skirts, stretched pants—ladies.
U.S. Steel Corp., Edgar Thomson-Irvin Works (USWA).	No. Braddock and Dravasburg, Pa. Plants.	1/12/82	1/8/82	TA-W-13,203	Sheet, strip steel, rolled cold rolled, sheet and strip hot rolled products, tin, mill, steel—electrical, silicon, steel—finished—semi.
Wheeling Machine Products Co. (USWA)	Wheeling W. Va	1/27/82	1/21/82	TA-W-13,204	Couplings—pipe, fittings—pipe.
Bayly Manufacturing Company (ACTWU)	Yakima, Wash	1/25/82	1/14/82	TA-W-13,205	Jeans and light corduroys—men's.
Bomar Crystal Co. (company)	Middlesex N.J	1/26/82	1/20/82	TA-W-13,206	Quartz crystals.
Brooks Shoe Manufacturing Co., Inc., (workers)	Hanover, Pa	2/4/82	2/1/82	TA-W-13,207	Sells and distributes athletic shoes made in Puerto Rico.
Doreen Fashions (ILGWU)	Newark, N.J	1/29/82	1/25/82	TA-W-13,208	Raincoats—ladies.
Fashion Specialties (ILGWU)	Newark, N.J	1/29/82	1/25/82	TA-W-13,209	Sportswear—ladies.
J.V. Components, Inc. (workers)	Conway, N.H	1/29/82	1/24/82	TA-W-13,210	Molds soles—shoes, molded, injection.
Kaiser Aluminum & Chemical Corp. (USWA)	Ravenswood, W. Va	1/29/82	1/15/82	TA-W-13,211	Aluminum, primary sheets, plate, foil stock aluminum, fabricate.
Lisa Dress Co., Inc. (ILGWU)	East Orange, N.J	1/29/82	1/25/82	TA-W-13,212	Dresses—ladies.
Phillips ECG, Inc. (USWA)	Seneca Falls, N.Y	1/20/82	1/13/82	TA-W-13,213	Tubes—picture color for TV and other products.
Reynolds Aluminum Building Products (USWA)	Stratford, Conn	1/11/82	1/7/82	TA-W-13,214	Shingles—roofing, asphalt.
Tivonne Fashions, Inc. (ILGWU)	Newark, N.J	1/29/82	1/25/82	TA-W-13,215	Raincoats—ladies.
Paula Lawrence, Ltd. (workers)	New York, N.Y	1/20/82	1/15/82	TA-W-13,216	Coats and jackets, down, poly filled—coats wool.
Phoenix Sportswear, Inc. (ILGWU)	New York, N.Y	1/5/82	12/30/81	TA-W-13,217	Dresses—ladies.
Washington Steel Corp. (USWA)	Washington, Pa	1/20/82	1/8/82	TA-W-13,218	Coils, sheets, plates, slab, strip—steel, stainless finishes.
Washington Steel Corp. (USWA)	Houston, Pa	1/20/82	1/8/82	TA-W-13,219	Coils, sheets, plates, slab, strip—steel, stainless.

[FR Doc. 82-3895 Filed 2-12-82; 8:45 am]

BILLING CODE 4510-30-M

National Advisory Committee on Oceans and Atmosphere

Meeting

February 10, 1982.

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday and Tuesday, March 1 and 2, 1982. The meetings will be held in Rooms 418 and B-100, Page Building 1, 2001 Wisconsin Avenue, NW., Washington, D.C.

The Committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations and State and local government, was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of reports as may from time to time be requested by the President or Congress.

The tentative agenda is as follows:

Monday, March 1, 1982

9:00 a.m.-9:15 a.m.—Plenary
9:00 a.m.-9:15 a.m.—Announcements
9:15 a.m.-12:00 Noon—Panel Meeting
- Waste Management, Chairman: John Knauss (Room 418), Topic: Worksession-Position for Testimony

12:00 Noon-1:00 p.m.—Lunch
1:00 p.m.-4:30 p.m.—Panel Meetings
1:00 p.m.-3:00 p.m.
- Weather Services, Chairman: Warren M. Washington, (Room B-100), Topic: Work session-Draft Report

- U.S. Coast Guard, Chairman: Michael R. Naess, (Room 418), Topic: Legislative Origin of Missions and Budget History

4:30 p.m.—Recess

Tuesday, March 2, 1982

8:30 a.m.–11:00 a.m.—Panel Meeting
- Environment and Regulations, Co-Chairman: Sylvia A. Earle, Michael R. Naess, (Room 418), Topic: Clean Water Act—Section 404, Speakers: TBA

11:00 a.m.–12:00 Noon—Plenary
- Reorganization of the National Oceanic and Atmospheric Administration, John V. Byrne, Administrator

12:00 Noon–1:00 p.m.—Lunch

1:00 p.m.–3:00 p.m.—Plenary
- Review of Action Items
- Panel Progress Reports
- Other Business

3:00 p.m.—Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Washington, DC 20235.

February 10, 1982.

Steven N. Anastasion,

Executive Director.

[FR Doc. 82-4043 Filed 2-12-82; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: March 11–12, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for Higher Education/Regional and National Program for projects beginning after July 1, 1982.

2. Date: March 18–19, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for Program Development Projects, Division of Special Programs, for projects beginning after August 1, 1982.

3. Date: March 4–5, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1134
Program: This meeting will review applications submitted for Research Materials: Tools Panel on History, American Studies, Religion, Philosophy, and Social Sciences, Division of Research Programs, for projects beginning after July 1, 1982.

4. Date: March 4–5, 1982
Time: 9:00 a.m. to 5:30 p.m.
Room: 1st Floor Conference Room
Program: This meeting will review applications submitted for the Libraries Humanities Project Program, Division of Public Program, for projects beginning After July 1, 1982.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose:

(1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) Information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call 202–724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-4042 Filed 2-12-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Activities; Meeting

The ACRS Subcommittee on Regulatory Activities will hold a meeting on March 3, 1982 in Room 1046, 1717 H Street, NW, Washington, DC.

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.

The agenda for subject meeting shall be as follows:

Wednesday, March 3, 1982—8:45 a.m. until 1:30 p.m.

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Regulatory Guide 1.28, Revision 3, "Quality Assurance Program Requirements (Design and Construction)" (post comment).

(2) Proposed Amendment to 10 CFR 50.49 regarding Accreditation of Qualification Testing Organizations (pre comment).

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory Guide 1.28, Revision 3, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to ensure that adquate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practicable to Mr. Sam Duraiswamy, the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, DC 20555 or telecopy them to the Designated Federal Employee (202/634–3319) as far in advance of the meeting as practicable. Such comments shall be

based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., N.W., Washington, DC 20555.

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 Designated Federal Employee for this meeting, Mr. Sam Duraiswamy, (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m., Eastern Time.

Dated: February 9, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–4070 Filed 2–12–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee On Reactor Safeguards, Subcommittee on Reactor Operations; Meeting

The ACRS Subcommittee on Reactor Operations will hold a meeting on Wednesday, March 3, 1982 in Room 762 at 1717 H Street, NW, Washington, D.C. This Subcommittee will meet with the Staff of the NRC's Office for Analysis and Evaluation of Operational Data and possibly other interested parties to continue discussions on the proposed Licensee Event Report (LER) Rule outlined in SECY–82–3, "Proposed Addition of 10 CFR 50.73 Establishing the Licensee Event Report (LER) System.

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.

The agenda for subject meeting shall be as follows:

Wednesday, March 3, 1982—2 p.m. until the conclusion of business

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff; their consultants, and other interested persons regarding this review.

Further information 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. Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5 p.m., EST.

Dated February 9, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–4069 Filed 2–12–82; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

February 10, 1982.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available)
The office of the agency issuing this form
The title of the form
The agency form number, if applicable
How often the form must be filled out
Who will be required or asked to report
The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected
Whether small businesses or organizations are affected
A description of the Federal budget functional category that covers the information collection
An estimate of the number of responses
An estimate of the total number of hours needed to fill out the form
An estimate of the cost to the Federal Government
An estimate of the cost to the public
The number of forms in the request for approval
An indication of whether section 3504(h) of Pub. L. 96–511 applies
The name and telephone number of the person or office responsible for OMB review and
An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Deputy

Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

• Bureau of the Census
1982 Economic Censuses Classification Report
NC–9921
Nonrecurring
Businesses or other institutions
Single establishment companies in all Economic Areas
SIC: Multiple
Small businesses or organizations
Other advancement and regulations of commerce: 50,000 responses; 12,500 hours; $0 Federal cost; 1 form; not applicable under 3504(e)
Statistical Policy Branch, 202–395–7313

To provide a standard basis for assigning standard industrial classification codes of establishments engaged in all areas of economic activity.

Reinstatments

• Economic and Statistical Analsis
Form BE–15 Annual Survey of Foreign Direct Investment in the U.S.—1981
BE–15 Annually
Businesses of other institutions
Foreign owned U.S. business enterprises
SIC: Multiple
Small businesses or organizations
Other advancement and regulations of commerce: 2,500 responses; 7,500 hours; $200,000 Federal cost; 1 form; $150,000 public cost not applicable under 3504 (e)
Statistical Policy Branch, 202–395–7313

Secures financial and operating data on U.S. Companies owned by foreign persons consisting of information on balance sheets, income statements. Employment, trade, and by state, acres of land and mineral rights and property, plant, and equipment owned. Authorized by the international Investment Survey Act of 1976 (Pub. L. 94–472). Required for the preparation of the international investment accounts of the United States.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—703–697–1195

New

• Departmental and Others
Study of Parental Influence on Enlistment
Nonrecurring
Individuals or households
Parents of youth ages 16 to 21
Department of Defense-Military: 4,150 responses; 2,562 hours; $240,000 Federal cost 1 form; not applicable under 3504(h)
Kenneth B. Allen, 202–395–3785

Determine the role parents play as influencers in the youth enlistment decision process. Previous research documents the importance of influences, but not information about attitudes and perceptions of influences as they affect enlistment decision is currently available results will be used by service/DOD staffs to develop advertising programs to reinforce or improve the perceptions of influences.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

Reinstatments

• Human Development Services
Annual State Win Plan (State Win Training Plan, Signature Sheet, and work sheets)
ETA 8480, 8479, 8484, 8482, 8485
Annually
State or local governments
State win programs (ES & welfare agencies)
SIC: 832
Training and employment: 27 responses; 6,201 hours; $50,260 Federal cost; 4 forms; $6,201 public cost; not applicable under 3504(h)
Gwendolyn Pla, 202–395–6880

The State win plan is the basic planning and management tool utilized by the national and regional offices to ensure compliance with legislation, regulations, and national office goals. It is also the vehicle for providing initial and final allocation levels to State agencies.

DEPARTMENT OF TRANSPORTATION

Agency clearance Officer—John Windsor—202–426.1887)

New

• Coast Guard
Merchant Marine Personnel Physical Examination
CG–719k
On occasion
Individuals or households
U.S. Merchant Mariners
Water transportation: 23,000 responses; 23,000 hours; $2,500,000 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

Needed to report the physical qualifications of all rated (qualified) crew members aboard U.S. merchant vessels as well as to ensure shipboard health standards as food handlers must be free of communicable disease. 46 USC 672(A), (E), (F), and (G).

• Coast Guard
"Applicant", Department of Justice Fingerprint Application,
FD–258
On occasion
Individuals or households
U.S. Merchant Seamen
Water transportation: 25,000 responses; 2,500 hours; $100,000 Federal cost; 1 form; not applicable under 3504(h)
Wayne Leiss, 202–395–7340

Fingerprints required to insure applicant has not been convicted of a narcotics drug law violation within preceeding 10 years. Information received (rap sheet) triggered by fingerprint application will confirm or deny these facts. Used also for alien background inquirys. 46 USC 239(B), 643(A), (B), (E) and (1), 672 (B).

• Federal Highway Administration
Internal Audit Responsibilities for State Highway
Agnecies
Annually, on occasion
State or local governments
State highway agencies
SIC: 962
Ground Transportation: 312 responses; 123 hours; $120,441 Federal cost; 1 form; $1,230 public cost; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

Copies of audit reports are needed by FHWA to support or deny the recipients' reimbursement claims. The single audit plan supplements and audit certifications are needed to evidence compliance with the government-wide audit requirements.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Christine Scoby—202–382–2742

New

• Regulatory impact analysis survey (816)
Generic clearance
0816
nonrecurring
businesses or other institutions
Hazardous waste generators and TSD facilities.
SIC: multiple
Small businesses or organizations
pollution control and abatement; 3,233 responses; 26,388 hours; $7,925,400 Federal cost; 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

The EPA in compliance with Executive Order 12291 is preparing regulatory impact analyses of RCRA hazardous waste management regulations. As part of this effort, EPA will collect information in the spring of 1982 from hazardous waste generators and treatment, storage, and disposal facilities (TSDS).

Reinstatements

• Mobile Source Emission Factor Survey
On occasion
Individuals or households
Factor survey
Pollution Control and abatement: 5,000 responses; 2,500 hours; $0 Federal cost 1 form; not applicable under 3504(h)
Edward H. Clarke, 202–395–7340

This is an annual survey of emissions preformance of in-use vehicles. data are used for the development of mobile source emission factor, which are critical for local air quality planning and program management activities.

INTERNATIONAL DEVELOPMENT ASSISTANCE

Agency Clearance Officer—Ms. Melita Yeahwood—202–632–0084

Extensions (Burden change)
• Application for Political Risk Investment Insurance
(OPIC form No. 52)
No. 52
Other-see SF83
Businesses or other institutions
U.S. investors applying for OPIC ins. Coverage and fin. asst.
SIC: multiple
Small businesses or organizations
Foreign economic and financial assistance: 275 responses; 46 hours; $0 Federal cost; 1 form; not applicable under 3504(h)
Phillip T. Balazs, 202–395–4814

To comply with sec. 231(m) of the foreign Assistance Act of 1961, as amended, OPIC must refuse to insure or finance investment subject to performance requirements which reduce U.S. trade benefits. This additional question in the insurance application is intended to identify projects subject to performance requirements so that OPIC may then administer a trade effects tests.

INTERSTATE COMMERCE COMMISSION

Agency Clearance Officer—Carroll Stearns—202–633–0204

Reinstatements

• Application for Motor Carrier Certificate of Registration
OP–OR–100
On occasion
Businesses or other institutions
Privately owned motor carriers of property
SIC: 421
Ground transportation: 50 responses; 100 hours; $209,650 Federal cost; 1 form; not applicable under 3504(h)
Donald Arbuckle, 202–395–7340

This is an application containing all the information necessary for the commission to determine whether a motor carrier presently engaged in interstate operations, can also engage in operations in Interstate and Foreign Commerce within limits which don't exceed their interstate authority. The ICC must grant authority before interstate operations can begin.

NATIONAL SCIENCE FOUNDATION

Agency Clearance Officer—Herman Fleming—202–357–7811

New

• Survey of Scientific and Engineering Personnel Employed
At universities and Colleges, January 1983 and January 1984
NSF form 724
Annually
Businesses or other institutions
Univ. and colleges and their assoc. Fed. funded research./dev/ ctrs
SIC: 822
General science and basic research: 2,200 responses; 21,034 hours; $103,000 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquistion Council, 202–426–5030

This unique data system which is unavailable from any other source provides the basis for National planning and policy formulation regarding academic science and technology. These data are used by the Congress, other Federal agencies, industry, professional societies and foundations, States, universities, the press, international groups, and NSF.

Reinstatements

• Survey of Scientific and Engineering Expenditures at Universities and Colleges, fy 1982 and fy 1983
NSF form 411
Annually
Businesses or other institutions
Univ. and coll. and their assoc. Fed. funded resrch. dev. ctrs.
SIC: 822
General Science and basic research: 579 responses; 15,054 hours; $78,400 Federal cost; 1 form; not applicable under 3504(h)
Federal Education Data Acquisition Council, 202–426–5030

This unique data system which is unavailable from any other source provides the basis for national planning and policy formulation regarding academic science and technology. These data are used by Congress, other Federal agencies, industry, professional societies and foundations, States, universities, the press, international groups, and NSF.

NUCLEAR REGULATORY COMMISSION

Agency Clearance Officer—Stephen Scott—301–492–8585

New

• Supression Pool Temperature Limits for BWR Containments
Nureg's 0661, 0487, and 0783
Nonrecurring
Businesses or other institutions
NRC licensees
SIC: 483
Energy information, policy, and regulation: 40 responses; 28,000 hours; $40,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

The issue of pool dynamic loads has been identified as a safety issue needing further review.

Revisions

• NUREG 0737, Clarification of the TMI Action Plan
Requirements and Related Orders
Nonrecurring
Individuals or households
NRC licensees
Energy information, policy, and regulation: 1 response; 910,850 hours; $8,000,000 Federal cost; 1 form; not applicable under 3504(h)
Jefferson B. Hill, 202–395–7340

Nureg–0737 provides requirements imposed on licensees as a result of TMI accident and requires licensees to report on progress to date. Also requires licensees to implement some short-term recommendations based on the experience from the accident at TMI and the official studies and investigations.

SMALL BUSINESS ADMINISTRATION

Agency Clearance Officer—Ms. Elizabeth Zaic—202–653–7738

Extensions (burden change)

• 8(A) Business Plans
(4) SBA–1010–R, SBA–1010–S, SBA–1010–T,U
Nonrecurring
Businesses or other institutions
Small business owned by Soc. & Econ. disadvantaged indivdls.
SIC: multiple
Small businesses or organizations

Other advancement and regulation of commerce: 1,980 responses; 15,840 hours; $4,000 Federal cost; 4 forms; $818,496 public cost; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

Final SBA rules (published November 23, 1981) implementing P.L. 96–481 require the establishment of fixed periods of participation for firms entering SBA's 8(A) program. The extension of form usage will permit SBA to collect new information required to establish fixed periods.

Extensions (no change)

• 8(A) Business Plans
On occasion
Businesses or other institutions
Small business owned by Soc. & Econ. disadvantaged indivls.
SIC: multiple
Small businesses or organizations
Other advancement and regulation of commerce: 3,000 responses; 60,000 hours; $1,800,000 Federal cost; 4 forms; $768,384 public cost; not applicable under 3504(h)
Edward C. Springer, 202–395–4814

Public Law 96–481 requires the negotiation of fixed periods of participation for all firms participating in SBA's 8(a) program. The proposed forms collect new information required to negotiate such terms.

Nathaniel Scurry,

Chief, Reports Management.

[FR Doc. 82–4032 Filed 2–12–82; 8:45 am]

BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 12215; (812–4930)]

Barclays Bank of Canada; Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From all Provisions of The Act

February 8, 1982.

Notice is hereby given that Barclays Bank of Canada ("Applicant") c/o H. Rodgin Cohen, Esq., Sullivan & Cromwell, 125 Broad Street, New York, NY 10004, filed an application on July 27, 1981, and an amendment thereto on December 30, 1981, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting the Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant is the successor of Barclays Canada Limited ("BCL"), a finance company chartered under the laws of Canada. BCL was incorporated as a Canadian federal company in 1928. BCL was converted to a bank under the name Barclays Bank of Canada on July 30, 1981, following the amendment of the Canadian Bank Act permitting foreign banks to establish subsidiary banks in Canada. Applicant is a wholly-owned subsidiary of Barclays Bank International Limited ("BBI"), a bank organized under the laws of the United Kingdom.

Applicant represents that its predecessor, BCL, served as BBI's principal financial operation in Canada prior to the conversion to bank status and although BCL was not licensed as a bank it functioned similarly to a bank in many respects. Applicant states that BCL's principal business was providing credit and other financial services to Canadian enterprises. The credit activities consisted of short and medium term leasing, discounting of trade bills, letters of credit, and foreign exchange trading.

Applicant states that BCL had total assets as of May 31, 1981, the date of the latest financial statements, of $891 million and equity capital of $50 million (using an exchange rate of Canadian $1.00=United States $0.83). Applicant states that the bulk of BCL's assets, 91%, consisted of loans, and its principal funding was derived through the issuance of short term notes. Applicant contemplates that BBI will continue to exercise the substantial supervision over its activities and procedures that applied to BCL. Applicant states that as a bank it has significantly broadened its business to a full service wholesale bank, with the principal change being the acceptance of deposits. These deposits are expected to be principally wholesale deposits taken from the Canadian money market. In addition, Applicant states that it will issue banker's acceptances.

Applicant states that as a bank it is subject to the extensive regulatory structure of Canadian law, which is a matter of Canadian federal jurisdiction and that each new chartered bank is incorporated under the Banks and Banking Law Revision Act, 1980 ("Bank Act"), an act of the Canadian Parliament. Applicant further states that, under the Bank Act, Canadian banks are subject to administration and supervision by the Inspector General of Banks. The application indicates that principal regulation relates to business and powers, types of loans, shareholders and directors, capital stock and debentures, liquidity, reserve requirements, auditing and financial disclosure requirements, with regular inspection by the Inspector General.

Applicant proposes to issue and sell in the United States unsecured prime quality commercial paper notes, in bearer form and denominated in United States dollars, payment of which will be unconditionally guaranteed by BBI. Under the proposal, no note will be issued in a denomination smaller than $100,000. The notes will be issued and sold by Applicant to commercial paper dealers in Canada and the United States who will reoffer the notes as principal to investors in the United States and Canada. Applicant states that it does not currently intend to sell the notes in the United States in excess of an aggregate of $500 million outstanding at any one time.

Applicant undertakes to ensure that the notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold by a dealer to institutional investors and other entities and individuals who normally purchase commercial paper in large amounts. Also, Applicant undertakes to ensure that the dealer will provide each offeree of the notes prior to purchase with a memorandum which briefly describes the business of Applicant and BBI, including their most recent publicly available fiscal year end balance sheets and income statements, which shall have been audited in such manner as is customarily done for Applicant and BBI by their Canadian and English auditors, respectively. The memorandum will described differences which are material to investors, if any, between the accounting principles applied by Applicant and BBI in the preparation of that financial statements and "generally accepted accounting principles" as employed by finance companies and banks, respectively, in the United States. The memorandum will be at least as comprehensive as those customarily used by United States bank holding companies in offering commercial paper in the United States and will be updated promptly to reflect material changes in the financial condition of Applicant or BBI.

Applicant represents that the terms of these notes, including their negotiability, maturity and minimum denomination, the amount outstanding at any given time and their manner of offering to investors will qualify them for the exemption from registration under the Securities Act of 1933, as amended, provided by Section 3(a)(3) of that Act. Applicant states that the notes will be prime quality, negotiable commercial paper of a type eligible for discount by

Federal Reserve Banks and will arise out of, or the proceeds of which will be used for, current transactions and that they will contain no provision for payment on demand, extension, renewal or automatic rollover either at the option of Applicant or the holder. Accordingly, Applicant states that it will not be required to register the notes under the Securities Act of 1933.

Applicant undertakes that it will not issue and sell the notes until it has received an opinion of its United States legal counsel to the effect that, under the circumstances of the proposed offering, the notes would be entitled to a Section 3(c)(3) exemption. Applicant does not request Commission review or approval of United States counsel's opinion letter regarding the availability of an exemption under Section 3(a)(3) of the Securities Act of 1933. Applicant represents that it is not subject to the reporting requirements of the Securities Exchange Act of 1934, as amended, and will not become subject to such requirements in connection with issuance and sale of the notes.

Applicant represents that the presently proposed issue of notes and all future issues of securities in the United States shall have received prior to issuance one of the three highest investment grades from at least one nationally recognized statistical rating organization. Applicant undertakes to certify to its United States counsel that such a rating has been obtained prior to the issuance of notes.

Applicant represents that: as direct liabilities of Applicant, the notes will rank prior to its equity securities and *pari passu* among themselves and equally with all other unsecured indebtedness, including liabilities to depositors, except amounts due from Applicant to the government of Canada or to any province thereof, which would rank above the notes, and subordinated debt of Applicant, which would rank below the notes; and the guarantees by BBI of the notes will rank prior to equity securities of BBI and *pari passu* among themselves and equally with all other unsecured indebtedness of BBI, including liabilities to depositors, except subordinated debt of BBI, which would rank below the guarantees.

Applicant undertakes to appoint a bank in the United States as its authorized agent to issue the notes from time to time. Applicant further undertakes that it and BBI will each appoint that bank or some other United States entity to accept any process which may be served in any action based on any note or guarantee thereof and instituted in any State or Federal court by a holder of its notes. Applicant undertakes that it and BBI will expressly accept the jurisdiction of any State or Federal court in the City and State of New York in respect of any such action. Appointments of authorized agents to accept service of process and consents to jurisdiction will be irrevocable until all amounts due and to become due in respect of the notes have been paid. Applicant and BBI will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the notes or otherwise. The authorized agent will not be trustee for the noteholders and will not have any responsibilities or duties to act on their behalf as would a trustee.

Applicant also undertakes to submit financial statements and a balance sheet reflecting its first year of operation as a chartered bank as soon as practicable after that information is available.

Applicant consents to any order granting its application being expressly conditioned on its compliance with the foregoing undertakings and the undertakings decribed below.

Applicant may, from time to time, offer other debt securities unconditionally guaranteed by BBI (but not shares of Applicant's capital stock) for sale in the United States. Applicant undertakes that any future offering of debt securities in the United States will be done on the basis of disclosure documents at least as comprehensive in the description of their business and their financial condition and BBI's business and financial condition as is customary for bank holding companies offering similar debt securities in the United States, and undertakes to ensure that each offeree of such securities will be provided with such disclosure documents. Applicant further undertakes that any future offering will be made with due regard to the provisions of Rule 146 and the doctrine of "integration" referred to in Securities Act Release Nos. 4434, 4552 and 4708 and various "no-action" letters made public by the Commission.

Applicant also undertakes, in connection with any future offering in the United States of its debt securities, to appoint, and to cause BBI to appoint, an agent to accept any process which may be served in any action based on any such security or guarantee by BBI thereof instituted in any State or Federal court by the holder of any such security. Applicant further undertakes that it will expressly, and will cause BBI expressly to, accept the jurisdiction of any State or Federal Court in the City and State of New York in respect of any such action to the same extent as with the proposed offering.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any securities, or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant states that, among other things, compliance by it with a number of substantive provisions of the Act would, as a practical matter, conflict with its operation as a bank and lending institution and that Applicant would thus be effectively precluded from selling securities in the United States if it were required to register as an investment company and comply with such provisions of the Act. Applicant asserts that to exclude foreign banks from selling securities in the United States would be both inherently inequitable and in direct conflict with the objective of the International Banking Act of 1978. Applicant states that that statute was intended to place United States and foreign banks on a basis of competitive equality in their transactions in the United States.

Applicant asserts that granting an exemptive order pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act,

an order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4013 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12213; (812-4976)]

Centennial Government Trust; Filing of Application Pursuant to Section 6(c) of the Act for an Order Exempting Applicant From Rules 2a-4 and 22c-1 Under the Act

Notice is hereby given that Centennial Government Trust ("Applicant"), 3600 South Yosemite Street, Denver, Colorado 80237, a no-load, open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act") has filed an application for and order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of sales and redemptions of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects its portfolio will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant registered under the Act on September 9, 1981, as a "money market" fund which seeks to provide current income that is consistent with low capital risk and the maintenance of liquidity. Applicant states that it is designed as an investment vehicle for investors with temporary cash balances in securities accounts at certain brokerage firms, and that shares of Applicant are offered exclusively to participants in automatic purchase and redemption programs established by these firms. Applicant represents that its portfolio may, as a matter of fundamental investment policy, be invested in obligations issued by the United States Government or its agencies or instrumentalities maturing in twelve months or less from the date of purchase (whether or not subject to repurchase agreements). Applicant asserts that securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities include direct obligations of the U.S. Treasury and securities issued or guaranteed by the Federal Housing Administration, Farmers' Home Administration, Export-Import Bank of the United States, Small Business Administration, Government National Mortgage Association, General Services Administration, Central Bank for Cooperatives, Federal Home Loan Banks, Federal Loan Mortgage Corporation, Federal Intermediate Credit Banks, Federal Land Banks, Federal Housing Administration, Maritime Administration, The Tennessee Valley Authority, District of Columbia Armory Board, Federal National Mortgage Association, and the International Bank for Reconstruction and Development. Applicant asserts that some obligations of U.S. Government agencies and instrumentalities are supported by the full faith and credit of the U.S. Treasury; others, by the right of the issuer to borrow from the Treasury; still others are supported by only the credit of the instrumentality. Applicant maintains that the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, respectively, insure the deposits of Federally insured banks and savings and loan associations up to $100,000. Applicant states that current federal regulations also permit Federally insured banks and savings and loan associations to issue negotiable certificates of deposits ("CDs") in amounts of $100,000 or more without regard to the interest rate ceilings on other deposits. Applicant states that to remain fully insured, investments in CDs at present must be limited to $100,000 per bank or sevings and loan association. Applicant submits that fully insured CDs may offer higher rates of return than securities issued directly by the U.S. Government or its agencies, but their small size and recent inception may impede the development of an active market for them. Applicant represents that its purchases of CDs will be limited to the insured amount of principal ($100,000) in each case; and that if the principal amount and accrued interest together exceed $100,000, then the excess accrued interest will not be insured. Applicant maintains that except to the extent that its turstees determine that a readily available market exists for CDs, Applicant will limit its purchases of those instruments in the aggregate to 10% or less of its net assets. Applicant states that it may also purchase obligations of the types listed above where they mature in more than twelve months, if they are purchased subject to repurchase agreements calling for delivery in twelve months or less.

Applicant represents that it is expected that its shareholders will use it shares for investment of temporary cash balances. Applicant states that the maintenance of a constant net asset value per share is expected to be a crucial factor in the purchase and holding of Applicant's shares. Applicant asserts that by meeting the conditions set forth in the application and by valuing its shares to the nearest one cent on a share value of one dollar, it can maintain a constant value for its shareholders along with full liquidity and a satisfactory yield. In addition, Applicant states that its adherence to the conditions set forth in the application will substantially reduce the likelihood of significant variation from a constant share price and the likelihood of any dilution of the assets and returns of incoming or outgoing shareholders.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application may conditionally or unconditionally exempt any person, security or transaction, or any class or class of persons, securities, or transactions from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where

necessary or appropriate. Rule 2a–4 states further that portfolio securities with respect to which market quotations are readily available shall be valued at current market, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. In Investment Company Release No. 9786 (May 31, 1977) the Commission issued an interpretation of Rule 2a–4 expressing its views that it is inconsistent with the provisions of Rule 2a–4 for money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a–4.

Applicant states that shareholders who purchase its shares with the expectation of receiving maximum current income consistent with stability of principal would be unfairly treated should there be a deviation below $1.00 per share, because redeeming shareholders could lose not only all or part of the dividend income which they have earned but even part of their principal particularly if a redemption takes place relatively soon after a purchase. Applicant represents that, to the extent necessary, its Trustees will consider the advisability of temporarily suspending the payment of dividends, or making capital gains distributions (if and to the extent that capital gains have not reflected in prior dividends) to maintain a $1.00 price per share, if the net asset value per share declines to a value below $0.997 or rises to a value above $1.003, respectively. Applicant also represents that in order to attempt to assure the stability of its net asset value per share it will (so long as it utilizes the method contemplated by the requested order in computing its net asset value per share rather than the method contemplated by IC–9786) adhere to the following conditions:

1. Applicant's Trustees, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertake—as a particular responsibility within their overall duty of care owed to Applicant's shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objectives, that Applicant's price per share as computed for the purposes of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from one dollar.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share. Applicant will not purchase a portfolio security unless it matures in one year or less, or is subject to a repurchase agreement, the delivery under which does not exceed one year, or has been called for redemption within one year; nor will it maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant will limit its portfolio investment, including repurchase agreements and securities called for redemption, to those instruments which are denominated in U.S. dollars and which the Trustees of Applicant determine present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by its Trustees.

Notice is further given that any interested person may, not late than March 1, 1982, at 5:30 p.m., submit to the Commission in writing, a request for hearing on the application accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, and order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–4012 Filed 2–12–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22385; (70–6695)]

Connecticut Light & Power Co. et al.; Proposal to Create Construction Trust To Assist in the Financing of Nuclear Unit

February 9, 1982.

Connecticut Light & Power Company ("CL&P), Hartford Electric Light Company ("HELCO"), Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, all public utility subsidiaries of Northeast Utilities ("Northeast"), a registered holding company, have filed an application-declaration pursuant to Sections 6(a), 7, and 12(d) of the Public Utility Holding Company Act of 1935 ("Act").

CL&P, HELCO, and WMECO (collectively, "Companies") are the owners as tenants-in-common of the nuclear electric generating units known as Millstone Unit Nos. 1 and 2 located at the Millstone Nuclear Power Station ("Millstone") in Waterford, Connecticut. CL&P, HELCO, and WMECO own 53%, 28% and 19% interests, respectively. Millstone Unit No. 1, with a capacity of approximately 660,000 kilowatts, was placed in operation in late 1970, and Millstone Unit No. 2, with a capacity of approximately 870,000 kilowatts, was placed in operation in late 1975.

Millstone 3 ("Unit No. 3"), the third unit at Millstone is presently under construction. The Companies collectively own 65% (CL&P 34.45%, HELCO 18.20% and WMECO 12.35%) of Unit No. 3. Unit No. 3 will have a capacity of approximately 1,150,000 kw and is scheduled for completion in May, 1986. As of September 30, 1981, engineering on the project was approximately 70% complete and construction was approximately 40% complete.

CL&P, HELCO, and WMECO in January, 1981 made offers to sell a minimum of 100 MW of their 748 MW interest in Millstone 3 to other New England and New York utilities. Expressions of interest in the purchase of 59.6 MW of the offering were received. Contracts for the sale of 49.6

MW have been signed. Although interest in the remaining 10.0 MW interest continues, contracts for its sale have not yet been executed. Of the 49.6 MW for which contracts have been signed, the Companies expect that WMECO will sell approximately 37.2 MW for approximately $43.7 million and HELCO will sell the approximately 12.4 NW remaining for approximately $14.6 million. The proposed sales, if consummated, are expected to be completed within twelve months.

The estimated total construction cost of Unit No. 3 is approximately $2.6 billion (including allowance for funds used during construction ("AFUDC"), but excluding nuclear fuel), of which approximately $1.1 billion (including AFUDC, but excluding nuclear fuel) had been spent through December 31, 1981. The estimated construction expenditures through 1986 for the Companies' share in Millstone 3 (including AFUDC, but excluding nuclear fuel, and adjusted to reflect consummation of the proposed sale of approximately 59.6 MW of the Company's interests in Millstone 3) are $1.6 billion.

In addition to financing their respective construction programs and nuclear fuel expenditures through 1987 aggregating $1,198 billion, $629 million, $286 million, respectively, for CL&P, HELCO and WMECO, the Companies will expend $208 million, $72 million and $60 million, respectively, in 1982 through 1987 to meet long-term debt maturities (other than the Millstone construction trust financing) and long-term debt and preferred stock sinking fund requirements. Construction program expenditures, nuclear fuel expenditures, long-term debt maturities and long-term debt and preferred sinking fund requirements for each of HELCO, WMECO and CL&P will exceed projected internally generated funds by $598 million, $289 million, and $138 million respectively, during the year 1982 through 1986.

The Companies intend to continue to finance their construction programs and other capital requirements through conventional means, including first mortgage bonds, common equity, preferred stock, leasing equipment and short-term and intermediate term borrowings. However, because of the substantial construction costs to be incurred during the completion of Millstone 3, the Companies deem it advisable to obtain advance construction financing commitments for a significant portion of Unit No. 3 costs. Such advance commitments would reduce the extent to which the Companies' construction program is vulnerable to changes in financial markets and to the Companies' financial condition. To secure such advance commitments, the Companies propose to enter into arrangements with the Bank of New York, as trustee ("Trustee") of the Millstone Construction Trust ("Millstone Trust"). The Millstone Trust will be a special purpose trust organized under New York state laws, limited in scope to financing a portion of the Companies' share of construction costs for Unit No. 3. The Millstone Trust will be created pursuant to a proposed Trust Agreement ("Trust Agreement") between a bank to be selected by the Companies, as Trustor ("Trustor"), the Trustee and the Companies as beneficiaries. Pursuant to proposed Construction Loan Agreements ("Construction Loan Agreements") between each of the Companies and the Trustee, each Company will agree to grant the Trustee a lien on such Company's undivided interest in Unit No. 3, second only to the lien of such Company's presently outstanding first mortgage bond indenture, securing such Company's obligations under its respective Construction Loan Agreement. The lien on the Companies' undivided interests in Unit No. 3 will be evidenced by a second mortgage to the Millstone Trust. The Trustee under the Construction Loan Agreements will in turn agree, to the extent of the Millstone Trust's commitment, initially $400 million, to reimburse the Companies for a portion of their share of the construction expenditures for Unit No. 3.

The Millstone Trust's commitments under the Construction Loan Agreements will be the sum of the commitments, initially $400 million, of the banks ("Banks") which are parties to the Credit Agreement and the Revolving Credit Agreement ("Bank Credit Agreements"). The amounts available to CL&P, HELCO and WMECO, on an individual basis, under the Construction Loan Agreements will be 100%, 80% and 30%, respectively, of the Millstone Trust's commitments then in effect, provided that the Companies, on an aggregate basis, may not have loans outstanding at any time in excess of the total commitments then in effect.

The Construction Loan Agreements will require the Companies to make quarterly payments of accrued interest, in arrears, computed so as to pay the Trustee its full cost of financing pursuant to the Bank Credit Agreements. Loans outstanding under each Company's Construction Loan Agreement will bear interest at a daily rate, computed on a daily basis, equal to such Company's pro-rata share of all interest expense, fees, and amortization of debt discount of the Trustee, with respect to all commercial paper issued and all other indebtedness or liability incurred or owed by the Trustee pursuant to the Bank Credit Agreements.

Beginning on the last business day of the sixth calendar month after the Commencement Date (the earlier of (a) the last day of the first calendar quarter during which Millstone 3 commences commercial operation, or (b) December 31, 1987), the Millstone Trust's commitments pursuant to the Construction Loan Agreements will be reduced semi-annually over a four-Year period, as the commitments under the Credit Agreement and the Revolving Credit Agreement are reduced. Each reduction of the Millstone Trust's commitments will be accompanied by a mandatory prepayment by each Company of amounts outstanding under its Construction Loan Agreement to the extent that such amounts then outstanding exceed the Company's share of the Millstone Trust's commitments as so reduced. Final maturity of loans under the Construction Loan Agreement will occur four years after the Commencement Date. The Millstone Trust's commitments, unless terminated earlier upon an event of default or upon exercise of option of the Companies, will extend for four years after the Commencement Date. The Companies will have the right to permanently reduce in part or terminate in whole the Millstone Trust's commitments.

Pursuant to a proposed Credit Agreement ("Credit Agreement") among the Trustee and Bankers Trust Company, Barclays Bank International Limited and Manufacturers Hanover Trust Company ("LOC Banks"), and Bankers Trust Company, as agent ("Agent") for the LOC Banks, the Trustee will finance part of its construction loans to the Companies through the sale of up to $200 million of commercial paper notes ("CP Notes"), which notes will be backed by a standby letter of credit issued by one of the LOC Banks. The Credit Agreement will also provide a revolving line of credit of an equal amount to provide a liquidity borrowing option and to fund unpaid letter of credit drawings. The revolving line of credit provided in the Credit Agreement will merely be a support to the letter of credit facility and will not be an alternative to the revolving line of credit provided under the Revolving Credit Agreement. The Companies will select the form of financing to be used by the Trustee to fund any borrowing under the Construction Loan Agreements.

Six months after the Commencement Date, the LOC Banks' commitment will be reduced to $195 million, and at the end of each of the next five succeeding six-month periods, by an additional $30 million, and at a date forty-two months after the Commencement Date, by an additional $25 million, until final maturity occurs forty-eight months after the Commencement Date. If upon any of the aforementioned reduction dates the then outstanding commercial paper and loans under the Credit Agreement are less than the commitment in effect immediately prior to the scheduled reduction, the LOC Banks' commitment will be reduced to an amount that bears the same ratio to the commercial paper and loans then outstanding as the amount to which the commitment would otherwise be reduced bears to the LOC Banks' commitment in effect immediately prior to reduction. The LOC Banks' commitment will also be subject to termination in whole or in part by the Trustee. However, no reduction or termination of the LOC Banks' commitment will be permitted unless the commitment under the Revolving Credit Agreement is reduced by an equal amount. Upon any reduction in the LOC Banks' commitment the Millstone Trust will be required to prepay any outstanding commercial paper or loans in excess of the commitment so reduced.

Interest on loans under the Credit Agreement shall be payable quarterly and in arrears. For the first sixty days in each calendar year in which loans under the Credit Agreement are outstanding, such loans will bear interest at the following rate per annum (a) prior to January 1, 1988, at the Base Rate; (b) on and after January 1, 1988 and prior to January 1, 1989, at 103% of the Base Rate; (c) on and after January 1, 1989 and prior to January 1, 1991, at 105% of the Base Rate; and (d) on and after January 1, 1991 to and including the date of maturity of such loans, at 106% of the Base Rate. For the sixty-first calendar day and each calendar day thereafter in each calendar year in which such loans are outstanding, the unpaid principal amount of such loans will bear interest at 110% of the Base Rate. The Base Rate will be the greater of (i) the Prime Lending Rate at such time and (ii) the Adjusted Certificate of Deposit Rate (as defined in the credit Agreement) at such time plus ½ of 1%. Assuming full utilization of the $200 million commitment, a dealer discount of 15.7%, and a current prime rate of 16.5%, the effective cost (including all fees and expenses) for a CP Note is 16.5% per annum and 18.0% per annum for borrowings from LOC Banks.

Under the Revolving Credit Agreement the Trustee and a group of participating banks ("Revolving Credit Banks"), including Bankers Trust in its capacity as a lender and as agent ("Agent") for the Revolving Credit Banks, the Revolving Credit Banks will be obligated to make loans in the initial aggregate amount of $200 million to the Trustee on a revolving basis, not in excess of amounts needed on a current basis to provide funds to the Companies under the Construction Loan Agreements. The commitments of the Revolving Credit Banks will be reduced over a four-year period in the same manner as commitments of the LOC Banks are reduced under the Credit Agreement. Outstanding loans under the Revolving Credit Agreement will be required to be partially prepaid on specified dates in the same manner as the required partial prepayment of the CP Notes and loans under the Credit Agreement. The Revolving Credit Banks' commitment under the Revolving Credit Agreement will be terminable in whole or in part by the Trustee. However, no such termination will be allowed unless commitments under the Credit Agreement in an equal amount are also terminated. The Trustee will be required to pay the Agent for the Revolving Credit Banks, quarterly in arrears, interest on the unpaid principal amount of any "Revolving Domestic Note", as defined in the Revolving Credit Agreement, at the following rates per annum: (a) until December 31, 1987, at the Base Rate; (b) on and after January 1, 1988 and prior to January 1, 1989, at 103% of the Base Rate; (c) on and after January 1, 1989; and prior to January 1, 1991, at 105% of the Base Rate; and (d) on and after January 1, 1991 to and including the date of maturity of the Revolving Domestic Note, at 106% of the Base Rate; and (e) after maturity, whether by acceleration or otherwise, until paid, at 110% of the Base Rate. Beginning with January 1, 1988, the Trustee will have the alternative of borrowing under a Eurodollar option under the Revolving Credit Agreement. The Trustee will be required to pay interest, quarterly and in arrears, on the unpaid principal amount of any "Revolving Eurodollar Note", as defined in the Revolving Credit Agreement, at the following rates per annum: (a) from January 1, 1988 to December 31, 1990, at ¾ of 1% of the relevant Quoted Rate as defined in the Revolving Credit Agreement; (b) on and after January 1, 1991 to and including the date of the maturity of such Revolving Eurodollar Note, at 1% in excess of the relevant Quoted Rate; and (c) after maturity, at the higher of, 1% in excess of the rate normally in effect or 2% in excess of the Quoted Rate for periods on one day, one month or three months, as the Agent may select. Assuming a current prime rate of 16.5%, the effective cost (including all fees and expensed) of Domestic Note borrowing is 16.6% per annum; and, assuming a 30 day Quoted Rate of 15⅝%, the effective cost (including all fees and expenses) of Eurodollar Note borrowing is 16.5% per annum

In order to secure the Trustee's obligations to the LOC and Revolving Credit Banks ("Banks") and to the holders of the CP Notes, the Trustee will assign to the Agent, as assignee for the ratable benefit of the Banks and the holders of the CP Notes, as collateral security, all of its rights (but not its obligations) under the Construction Loan Agreements and all monies due under the terms and conditions of those agreements and under the Second Mortgage (including the liens created thereby) on the Companies' undivided interests in Millstone 3. Each Company will also be permitted to secure with its undivided interest in Millstone 3 additional indebtedness for money borrowed on a pari passu basis with the obligations represented by its Construction Loan Agreement, provided that the total principal amount of indebtedness (including that represented by its Construction Loan Agreement) secured by such second lien does not exceed two-thirds of such Company's net investment in Millstone 3 (including AFUDC) and that the proceeds of such additional indebtedness are used only to pay or refund construction costs relating to Millstone 3. The assignment of the contract rights and the second lien will be accomplished pursuant to a proposed Security Agreement and Assignment of Contracts ("Security Agreement") between the Trustee and the Agent.

The Millstone Trust under the Bank Credit Agreements will be able to incur other indebtedness other than indebtedness pursuant to such agreements provided that: (i) the amount of such additional indebtedness does not exceed $150 million; (ii) the proceeds of such additional financing are used only to pay or refund construction costs relating to Millstone 3 incurred subsequent to June 30, 1981 or to pay or refund costs and expenses related to the Bank Credit Agreements or the

agreement for additional financing; and (iii) such additional indebtedness shall not require any repayment prior to the initial reduction of commitments under the Bank Credit Agreements and shall be amortized over no less than eight semi-annual installments.

As additional security for the Trustee's obligations to the Banks and the holders of the CP Notes, the Trustee will be required, under the Security Agreement, to establish and maintain with the Agent an Operating Account (the "operating Account") which at all times will be subject to the sole control of the Agent, acting as agent for itself, the Banks and the holders of the CP Notes. The Trustee will be required to deposit in the Operating Account (a) all proceeds of the sale of any CP Notes, to the extent not required to pay matured and concurrently maturing CP Notes, (b) all monies required to be withdrawn from the Commercial Paper Account established under the Credit Agreement and to be transferred to the Operating Account, (c) the proceeds of the loans made by the Banks to the Trustee, and (d) the proceeds of assigned collateral. It is not intended that funds will accumulate in the Operating Account. Acting pursuant to instructions from the Companies, the trustee will issue CP Notes or request loans form the Banks only at such time and in such amounts as will be required to make payments when due to the Trustee, the Banks, the holders of the CP Notes or the Companies. Thus, ordinarily, proceeds from the sale of CP Notes or loans will not remain in the Operating Account but will be paid out immediately.

The application-declaration and amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 15, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will recieve a copy of any notice or order issued in this matter. After said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4015 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12221; (812-5067)]

Financial Daily Income Shares, Inc.; Filing of Application for an Order of the Commission Pursuant to Section 6(c) of the Act Exempting Applicant From the Provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 Thereunder

February 9, 1982.

Notice is hereby given that Financial Daily Income Shares, Inc. ("Applicant"), 7503 Marin Drive, Englewood, Colorado 80111, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on December 30, 1981, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value its assets pursuant to the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is incorporated under the laws of the State of Colorado and that its shares are sold to investors on a continuous basis at their current net asset value per share by Financial Programs, Inc. ("FPI"), which acts as exclusive selling agent and general distributor of such shares. Applicant further states that FPI serves as its investment adviser and that FPI is a wholly-owned subsidiary of The Gates Rubber Company.

Applicant states that it is a "money market" fund which seeks as its investment objective to obtain as high a level of current income as is consistent with liquidity and safety of capital. Consistent with that objective, Applicant states that it may invest in obligations of the U.S. Government and its agencies, bankers acceptances, certificates of deposit, commercial paper and corporate debt obligations, in each case maturing not more than two years from the date of purchase. Applicant states that it may also invest in repurchase agreements involving obligations which are eligible for investment under the foregoing classes. Applicant further represents that it holds no security maturing in more than one year.

Applicant represents that it presently determines the value of its assets and thus its net asset value per share by reference to market factors, but that securities with remaining maturities of 60 days or less are generally valued at their amortized cost values, absent unusual circumstances. Applicant further states that under its present valuation practices, its net asset value per share may fluctuate as a result of unrealized appreciation and depreciation in the value of its portfolio securities, and thus, unlike many other money market funds, it has been unable to offer its shareholders and new investors the opportunity to purchase or to redeem shares at a stable price of $1.00 per share. Therefore, it is stated, Applicant's Board of Directors has reviewed Applicant's current valuation and pricing practices, as well as those of money market funds which utilize the amortized cost valuation method pursuant to exemptive orders issued by the Commission, and concluded that Applicant could better serve the needs of its shareholders and prospective investors by enabling itself to sell and redeem its shares at a constant net asset value of $1.00 per share through the use of the amortized cost method of valuation. It is stated further that through such valuation method, Applicant believes it would be able to offer two features which appear to be favored by investors in money market funds: (1) stability of principal (i.e., a stable net asset value per share); and (2) a steady flow of investment income. Applicant asserts that stability of principal and a steady flow of investment income can best be attained through the use of amortized cost valuation subject to the conditions specified hereinafter. It is also asserted that with respect to securities maturing in 120 days or less there is normally a negligible discrepancy between market values and amortized cost values of such securities. Accordingly, Applicant represents that its Board of Directors has determined in good faith that, in view of Applicant's investment objectives and the conditions pursuant to which amortized cost valuation would be used, such valuation method would be appropriate and preferable to Applicant's current practices and would reflect the fair value of its portfolio securities absent unusual circumstances.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with

respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, repurchase and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

In view of the foregoing, Applicant requests an exemption pursuant to Section 6(c) of the Act from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit the calculation of its net asset value per share and the valuation of its assets pursuant to the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes or persons, securities, or transactions, from any provision or provisions of the Act or of the rules and regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant agrees that the following conditions may be imposed by the Commission in connection with its granting of the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to its investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purposes of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $100 amortized cost price per share exceeds 1/2 of 1%, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes that the extent of any deviation from Applicants $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of Applicant's portfolio instruments; withholding dividends; or utilizing a net asset value per share as determined by using market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the Board of Director's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, if any, to those United States dollar-denominated instruments which the Board of Directors determines present minimal credit risks and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action as taken, will describe the nature and circumstances of such action.

Applicant submits that under its proposed use of the amortized cost

[1] To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the Board of Directors in the exercise of its discretion to be appropriate indicators of value which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio securities, or (2) values obtained from yield data relating to classes of securities published by reputable sources.

[2] Applicant states that in fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable. In addition, Applicant states that for purposes of calculating its dollar-weighted average portfolio maturity, "variable rate" securities with actual maturities of not more than 180 days and subject to interest rate adjustments not less frequently than monthly will be treated as if maturing upon the date of the next scheduled interest rate adjustment.

method of valuation subject to the conditions set forth above, the issuance of an order exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its assets using the amortized cost method of valuation would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 9, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service affidavit or, in the case of an attorney-at-law, (by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–4014 Filed 2–12–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12214; (812–507)]

Hutton AMA Cash Fund, Inc.; Filing of Application for an Order of the Commission Pursuant to Section 6(c) of the Act Granting Exemptions From the Provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

February 8, 1982.

Notice is hereby given that Hutton AMA Cash Fund, Inc. ("Applicant"), One Battery Park Plaza, New York N.Y. 10004, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on January 7, 1982, and an amendment thereto on January 21, 1982, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its assets pursuant to the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant is a corporation organized under the laws of the State of Massachusetts. Applicant's stated investment objective is to seek the maximum level of current income consistent with the maintenance of liquidity. Applicant states that it will seek to achieve its investment objective by investing in a portfolio of short-term money market instruments with a weighted average maturity of not more than 120 days. According to the application, Applicant's portfolio will consist of short-term obligations of the United States Government, its agencies or instrumentalities, certificates of deposit, Eurodollar fixed time deposits and bankers' acceptances of United States banks and savings and loan associations, foreign branches of United States banks and United States branches of foreign banks with over $2 billion in assets, commercial paper and high quality bonds with maturities not exceeding one year. Applicant states that it may also enter into repurchase and loan agreements, with a term of not more than one year, relating to such securities and similar securities whose maturities may be in excess of one year.

Applicant represents that its investments will be limited to those money market instruments that are of high quality as determined by Moody's Investors Service, Inc. and Standard and Poor's Corporation or, in the case of any instrument that is not rated, are of comparable quality as determined by Applicant's board of directors. Applicant states that all of its portfolio securities will mature or will have been called for redemption within one year or less.

According to the application, Applicant's shares will be offered exclusively in connection with the Hutton Asset Managment Account program. E. F. Hutton & Company, Inc., is Applicant's investment adviser and distributor.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors of the registered investment company. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, repurchase and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant contends that its shareholders are not concerned with the differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost. On the other hand, Applicant believes that potential investors are vitally concerned that (1) the net asset value of their shares remain stable and (2) the daily net income declared on their investments be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis. Applicant states

that it believes that by maintaining a portfolio of high quality money market instruments of short maturities it will be possible to provide the required stability to its investors.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules or regulations thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemption is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant represents that, with the advice of and based upon the experience of its investment adviser, Applicant has determined that maintaining an average portfolio of 120 days or less will accomplish the aims of Applicant's investors by reducing the risk of significant volatility in the value of portfolio instruments and at the same time producing a yield commensurate with those available in the short-term money market.

Additionally, Applicant represents that prior to instituting the amortized cost method of valuation, Applicant's board of directors will determine, in good faith that in light of the characteristics described in the application, the amortized cost method of valuing portfolio securities will reflect the fair value of such securities. Accordingly, Applicant requests that the Commission issue an order pursuant to Section 6(c) of the Act exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to compute its net asset value per share for the purpose of effecting sales, repurchases and redemptions of its shares, using the amortized cost method. Applicant agrees that the following conditions may be imposed in any order granting the exemptions requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, the board of directors of Applicant undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize its net asset value per share, computed for the purpose of distribution, repurchase and redemption, at $1.00 per share.

2. Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by the board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations for Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review. To fulfill this condition, Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by the board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

(b) In the event such deviation for Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) If the board of directors believes the extent of any deviation for Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results which may include: selling portfolio instruments prior to maturity to realize capital gains or losses or to shorten the Applicant's average portfolio maturity; withholding dividends; redemption of shares in kind; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, Applicant agrees that, if the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above; and Applicant will record, maintain, and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which Applicant's board of directors determines present minimal credit risks, and which are of high quality as determined by any major rating service, or in the case of any instrument that is not rated, of comparable quality as determined by its board of directors.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 1, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the

request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–4026 Filed 2–12–81; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12216; (812–5061)]

Home Life Money Management Fund, Inc.; Filing of an Application for an Order Pursuant to Section 6(c) of the Act Granting Exemption From the Provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

February 8, 1982.

Notice is hereby given that Home Life Money Management Fund, Inc. ("Applicant"), 253 Broadway, New York, NY 10007, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, filed an application, pursuant to Section 6(c) of the Act, on December 24, 1981, and an amendment thereto on January 25, 1982, for an order of the Commission granting an exemption from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its assets on the basis of amortized cost. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that it is a "money market fund" organized as a Maryland corporation; that its investment adviser will be Home Life Insurance Company; and that The Bank of New York will determine Applicant's net asset value per share and daily net income for dividend purposes.

According to the application, Applicant's investment objective is to maximize current income to the extent consistent with the preservation of capital and the maintenance of liquidity. Applicant states that it will seek to achieve this objective by investing in the following kinds of money market instruments: securities issued or guaranteed as to principal or interest by the United States Government or its agencies or instrumentalities; United States dollar denominated certificates of deposit, time deposits and bankers' acceptances of United States banks, foreign branches of such banks, and United States branches or agencies of foreign banks; commercial paper which at the time of purchase is rated A–1 by Standard & Poor's Corporation ("S&P") or Prime–1 by Moody's Investors Service, Inc. ("Moody's"), or, if not rated, then issued by companies with outstanding debt issues rated AA or better by S&P or Aa or better by Moody's; corporate debt obligations which at the time of investment are rated AA or higher by S&P or Aa or higher by Moody's; and repurchase agreements with respect to any of the foregoing obligations.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of the rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Prior to the filing of the application, the Commission expressed its view that, among other things: (i) Rule 2a–4 under the Act requires that portfolio instruments of money market funds be valued with reference to market factors, and (ii) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a money market fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Section 6(c) of the Act provides, in part, that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant submits that the exemption it requests will be consistent with these standards.

Applicant asserts that money market funds typically attract investors who seek stability of principal, as reflected in a constant net asset value per share, and a flow of investment income which reflects current money market rates and that the amortized cost method of valuation will facilitate Applicant's maintenance of a constant net asset value per share and permit it to provide investment income through daily dividends which will reflect Applicant's net income as earned. Applicant states that by maintaining a portfolio of high quality money market instruments with a dollar-weighted average portfolio maturity of 120 days or less, Applicant will avoid the possibility of significant volatility in the value of its portfolio securities and will be able to offer investors the stability they desire. According to Applicant, any discrepancy between the market value and the value on an amortized cost basis of a portfolio of securities with a dollar-weighted average maturity of 120 days or less should be negligible.

Applicant represents that its directors have determined in good faith that, in light of Applicant's characteristics, absent unusual circumstances, the amortized cost method of valuation is appropriate and preferable to the use of a market based valuation method and will reflect the fair value of Applicant's portfolio securities. Applicant states that it has only two directors at the present time but that when the full board is elected the application will be submitted for ratification.

Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which

the board of directors determines present minimal credit risks and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the board of directors.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value of $1.00 per share; provided, however, that Applicant will neither (a) purchase an instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity in excess of 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

3. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

4. Included within the procedures to be adopted by Applicant's board of directors shall be the following:

(a) Review by the board of directors as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds one-half of one percent, a requirement that the board of directors will promptly consider what action, if any, should be initiated.

(c) Where the board of directors believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding dividends; redemption of shares without the payment of any monetary consideration; or utilizing a net asset value per share as determined by using available market quotations.

5. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 3 above, an Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the board of directors' considerations and actions taken in accordance with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 4(c) was taken during the preceding fiscal quarter and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4022 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[1] To fulfill this condition, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, among others (i) quotations or estimates of market value reflecting current market conditions, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[Release No. 18474; (SR-MSRB-81-18)]

Municipal Securities Rulemaking Board; Order Approving Amended Proposed Rule Change

February 8, 1982.

The Municipal Securities Rulemaking Board (the "MSRB") Suite 507, 1150 Connecticut Avenue, NW., Washington, D.C. 20036, submitted on November 4, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend MSRB rule G-12 dealing with uniform practice. The MSRB submitted an amendment to the proposed rule change on December 17, 1981. Rule G-12 currently provides, among other things, for procedures and standards to be used in the comparison, clearance, and settlement of inter-dealer transactions in municipal securities, including the requirements for "good delivery." The proposed rule change provides that, in addition to the current "good delivery" requirements, securities delivered must be identical to those described in the inter-dealer confirmation with respect to specific descriptive details. Such details, for example, would include the issuer's name and the interest rate and maturity on the bond. The original proposal would have required securities to be identical as to their "in whole" call provisions. The amendment to the proposed rule change deletes the "in whole" requirement and requires that all

securities delivered must be identical as to any applicable call provisions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18250, November 10, 1981) and by publication in the **Federal Register** (46 FR 56528, November 17, 1981). Notice of the amended proposed rule change together with its terms of substance was also given by issuance of a Commission Release (Securities Exchange Act Release No. 18370, December 23, 1981) and by publication in the **Federal Register** (46 FR 63438, December 31, 1981). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change, as amended, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4019 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 18475; (SR-NASD-81-23)]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

February 8, 1982.

The National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, N.W., Washington, D.C. 20006, submitted on December 18, 1981, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to amend the Resolution of the Board of Governors following Section 4 of Part I of its Code of Arbitration by increasing the honorarium paid to arbitrators for each hearing session in which they participate from $50 to $100. The NASD believes that the present honorariunm, approved in 1977, should be increased in order to attract and retain qualified persons for arbitration panels.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 18377, December 29, 1981) and by publication in the **Federal Register** (47 FR 717, January 6, 1982). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, the requirements of Section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-4016 Filed 2-12-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 12218; (812-5012)]

New England Mutual Life Insurance Co. et al.; Filing of Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicants to the Extent Requested from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(a)(3), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c-1 Thereunder and Pursuant to Section 11 of the Act Approving Certain Offers of Exchange

Notice of hereby given that New England Mutual Life Insurance Company ("New England Life"), a mutual life insurance company organized under the laws of Massachusetts, New England Life Retirement Investment Account (the "Account"), a separate account of New England Life registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, and NEL Equity Services Corporation ("NELESCO"), the principal underwriter of the Account, (collectively referred to herein as "Applicants") filed an application on November 12, 1981, and filed an amendment thereto on February 1, 1982, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicants from certain provisions of Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(a)(3), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rule 22c-1 thereunder, and pursuant to Section 11 of the Act approving certain offers of exchange. New England Life is the depositor and sponsor of the Account. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

New England Life established the Account for the purpose of funding individual variable annuity contracts (the "Contracts") to be issued by New England Life and the Account. Applicants intend to offer the Contracts for sale to investors who qualify for tax-benefitted treatment under certain sections of the Internal Revenue Code of 1954, such as Sections 401(a), 408(a), 408(k) and 414(d). Purchase payments, net of applicable premium taxes, will be invested in five sub-accounts of the Account. The contractowner will allocate all or a portion of each purchase payment among one or more of the sub-accounts.

Each sub-account will be invested solely in shares of certain registered open-end investment companies ("Eligible Funds") organized by New England Life.

Applicants state that the Contracts will be offered without deducting any sales charge from purchase payments at the time of purchase. However, the Contracts provide for surrender charges in the form of contingent deferred sales charges which are intended to assist New England Life in covering its expenses related to the sale of the Contracts. The contingent deferred sales charge will be imposed if all or part of a Contract value is withdrawn. The charge will be equal to the lesser of (a) 5% of the purchase payments made within 6 years prior to the date of the withdrawal, or (b) 5% of the Contract value being withdrawn. No charge will be imposed for payments made upon death or under life income annuity options. In no event will the charge exceed 5% of the total purchase payments made under the Contract. Up to 10% of the total purchase payments made under the Contract may be withdrawn in any one Contract year without charge. However, if an additional withdrawl increases the total amount withdrawn during the Contract year to more than 10% of such purchase payments, the contingent deferred sales charge will be applied to all withdrawals made during such Contract year. Other charges under the Contracts include a $30 annual administrative charge which New England Life will deduct from the value of each Contract prior to the maturity date for administrative costs. The Charge will be made on each Contract anniversary prior to the maturity date of the Contract and on a pro rata basis if the Contract is surrendered or matures on a date other

than the Contract anniversary date. In addition, New England Life will deduct daily from each sub-account an expense risk charge and a mortality risk premium equal on an annualized basis to .40% and .85%, respectively, of the daily net asset value of each sub-account. New England Life guarantees that the $30 annual administrative charge will not increase over the life of the Contract, regardless of actual expenses, and the expense risk charge compensates New England Life for assuming this risk. The mortality risk premium is to compensate New England Life for actuarial risks it assumes in guaranteeing (a) that annuity payments will not be affected by the mortality experience (death rate) of persons receiving such payments or of the general population and (b) a minimum death refund equal to at least the sum of all purchase payments made, adjusted for withdrawals, if the designated annuitant dies before maturity.

Relief for Contingent Deferred Sales Charge

Section 27(d) of the Act, in substance, requires that the holder of a periodic payment plan certificate be able to surrender his certificate within a specified time and receive the value of his account and the return of sales charges in excess of a certain percentage. Section 2(a)(32) of the Act, in substance, defines a redeemable security as a security under the terms of which the holder is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Applicants request an exemption from Sections 27(d) and 2(a)(32), to the extent deemed necessary, to permit the offer and sale of Contracts providing for the deduction of the contingent deferred sales charge.

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of such difference deducted for trustee's or custodian's fees, insurance premiums, issue taxes, or administrative expenses or fees which are not properly chargeable to sales or promotional activities. Applicants request an exemption from Section 2(a)(35) to the extent necessary to permit the offer and sale of the Contracts with the deduction of the contingent deferred sales charge in the manner described in the application.

Rule 22c–1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. Applicants request an exemption from Section 22(c) and Rule 22c–1, to the extent necessary, to permit the offer and sale of the Contracts with the contingent deferred sales charge.

Section 27(a)(3) of the Act makes it unlawful for any investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate if the amount of the sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount from any other such payment, or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment. Under the Contracts, a contractowner would be able to withdraw up to 10% of the Contract's purchase payments in any one Contract year without imposition of the contigent deferred sales charge. However, such withdrawals could be followed by subsequent withdrawals in the same Contract year which taken together with the first withdrawal would aggregate more than 10% of Contract purchase payments, or by a withdrawal of more than 10% of the Contract purchase payments in any later Contract year. These subsequent withdrawals could result in the deduction of sales charges and might raise a question as to the applicability of Section 27(a)(3). Applicants submit that the contingent deferred sales charges imposed under the Contracts are not subject to the provisions of Section 27(a)(3) in that they are not imposed with respect to any purchase payments, but rather only with respect to certain withdrawals. However, in order to avoid any possibility that questions might be raised as to the potential applicability of Section 27(a)(3), Applicants have requested an exemption from that provision to the extent necessary to permit the offer and sale of Contracts providing for the deduction of the contingent deferred sales charge.

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificate unless it is a redeemable security. Applicants request an exemption from Section 27(c)(1) to the extent necessary in order to permit the offer and sale of the Contracts with a contingent deferred sales charge.

Section 26(a)(2)(C) of the Act provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust (or to any affiliated person or agent of such depositor or principal underwriter) shall be allowed the trustee or custodian as an expense except for payment of a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative services of a character normally performed by the trustee or custodian. Applicants request an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act, to the extent necessary, to allow expenses incurred in the distribution of the Contracts to be recovered from the contingent deferred sales charge.

Relief for Performance of Custodial Functions

Section 27(c)(2) of the Act provides, in substance, that the issuer of a periodic payment plan certificate and a depositor or underwriter for such an issuer are prohibited from selling any such certificates unless, among other things, the proceeds of all payments, other than the sales load, on the certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing, in substance, the trust indenture provisions required by Sections 26(a)(2) and 26(a)(3) of the Act. Applicants request that the Commission enter an order of exemption from the provisions of Sections 26(a) and 27(c)(2) in order that New England Life may hold in open account without physical certificates the shares issued by the Eligible Funds upon the investment in said Eligible Funds of purchase payments to the Account. Also, exemptive relief is sought to the extent necessary to permit assets of the Account to be held in custody for safekeeping by New England Life and so that the assets of the Account need not be held in trust.

Relief for Payment of Contract Fees and Charges

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor of or underwriter for such trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than amounts deducted for sales load, are deposited with a qualified bank as trustee or custodian. Section 26(a)(2)(D) provides that the custodian have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under clauses

(A), (B) and (C) of Section 26(a)(2) until distribution thereof to the security holders of the trust. As pertinent here, Section 26(a)(2)(C), provides, in substance, that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative services normally performed by the custodian. Applicants request an order exempting them from the provisions of Sections 26(a) and 27(c)(2) to the extent necessary to permit the deduction by New England Life and the payment to New England Life of (1) the annual charge of $30 and administrative expenses, (2) the proposed fee for providing the mortality and expense risk guarantees and (3) applicable premium taxes.

Applicants consent that the foregoing requested exemptions from Sections 26(a) and 27(c)(2) may be made subject to the following conditions: (1) that the deductions under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe and the Commission may reserve jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of the Account shall not be determined to be exempted from regulation by the Commission by reason of the requested order, provided that the Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and the Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Approval Under Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provide that, irrespective of the basis of exchange, the provisions of (a) shall be applicable to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

At any time during the accumulation or annuity phases under the Contract the contractowner or payee may request that all or part of his interest in a sub-account be transferred for an interest in another sub-account of the Account. Any transfers will be made at the relative net asset values per share of the particular Eligible Funds next determined after the request is received. A fee would be imposed only if New England Life concluded that such a fee was appropriate in view of a high volume of transfers and resultant high level of expenses. The fee would under no circumstances exceed $5 per transfer and would be disclosed in the then-current prospectus of the Account. Applicants submit that the proposed transfers of Contract value from one subaccount of the Account to another are not prohibited by Section 11 since no variable annuity contract is actually exchanged. However, in order to avoid any question in this regard, Applicants have requested an order pursuant to Section 11 approving the transfer provisions described above.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 3, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued, as of course, following March 3, 1982, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–4025 Filed 2–12–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22373A; (70–6631, 70–6689)]

Ohio Power Co.; Supplemental Notice Correcting Error in File Number

February 8, 1982.

In the matter of Ohio Power Co., 301 Cleveland Avenue, S.W., Canton, Ohio 44701.

In the notice issued January 28, 1982 (HCAR No. 22373) in this proceeding, the captioned file number (70–6631) was incorrect and should have read (70–6689).

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–4024 Filed 2–12–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 12217; (812–5056)]

Wayne Hummer Money Fund Trust; Filing of an Application for an Order Pursuant to Section 6(c) of the Act Exempting Applicant From Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 Thereunder

February 8, 1982.

Notice is hereby given that Wayne Hummer Money Fund Trust ("Applicant"), 175 West Jackson Boulevard, Chicago, Illinois 60604, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management

investment company, filed an application on December 22, 1981, requesting an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio securities using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund the investment objective of which is to provide maximum current income to the extent that such objective is consistent with the preservation of capital and the maintenance of liquidity. Applicant proposed to invest exclusively in the following money market instruments maturing in twelve months or less from the time of purchase: (a) Obligations of, or guaranteed by, the United States Government, its agencies or instrumentalities; (b) bank or savings and loan association certificates of deposit or bankers' acceptances limited to domestic banks or savings and loan associations having assets in excess of one billion dollars and which are members of the Federal Deposit Insurance Corporation in the case of banks, or the Federal Savings and Loan Insurance Corporation in the case of savings and loan associations; (c) commercial paper obligations rated A–1 by Standard & Poor's Corporation ("S & P") or Prime-1 by Moody's Investors Service, Inc. ("Moody's") or issued by companies with an unsecured debt issue outstanding currently rated Aa by Moody's or AA by S & P or higher; and (d) repurchase agreements with respect to money market instruments which are suitable for investment under the categories set forth above.

Applicant further states that it issues shares in two portfolios (the "Portfolios") which are differentiated on the basis of the types of money market instruments in which each may invest: (i) a Government Portfolio which may be invested exclusively in those money market instruments described in subparagraph (a) above as well as repurchase agreements with respect thereto and (ii) a Money Market Portfolio which may be invested as described in subparagraph (a) through (d) above.

As here pertinent, Section 2(a)(41) of the Act defines "value" to mean: (1) With respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here pertinent, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977). In view of the foregoing, Applicant requests exemptions from section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its Portfolios by means of the amoritzed cost method of valuation.

In support of the relief requested, Applicant states its belief that investors are attracted to investments which provide stability of principal and a steady flow of investment income. Applicant further believes that investors prefer that the daily dividends declared by the Applicant reflect income as earned and that the sale and redemption prices not change. By utilizing money market instruments of short maturities combined with a stable net asset value, preferably $1.00 per share, Applicant asserts that it would be possible to provide these features to a variety of investors. Applicant further believes that, given the nature of its policies, there will normally be a relatively negligible discrepancy between the amortized cost value of such securities and the value determined by a market valuation method.

On the basis of the foregoing, Applicant believes that the valuation of its Portfolios' securities on the amortized cost basis will benefit its shareholders by enabling the Applicant to maintain more effectively a stable price per share while providing its shareholders with a flow of investment income less subject to fluctuation than under procedures whereby dividends would be adjusted by unrealized gains and losses on its Portfolios' securities as well as realized gains and losses. The Applicant's board of trustees has determined in good faith that in light of the characteristics of the Applicant as described above and absent unusual or extraordinary circumstances, the amortized cost method of valuing its Portfolios' securities is appropriate and preferable for the Applicant and will reflect the fair value of such securities.

Section 6(c) of the Act provides, in pertinent part, that upon application the Commission may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that its application meets the standards of Section 6(c) of the Act in light of its management policies, and has agreed that the following conditions may be imposed in any order by the Commission granting the exemptive relief requested:

1. In supervising the Applicant's operations and delegating special responsibilities involving Portfolio management to the Applicant's investment adviser, the board of trustees of the Applicant undertakes—as a particular responsibility within the overall duty of care owed to the Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and the Applicant's investment objectives, to stabilize the Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

2. To be included within the procedures to be adopted by the board of trustees of the Applicant are the following:

(a) Review by the board of trustees, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations if available or, if not available, fair value as determined by the board of trustees from the Applicant's $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, the board of trustees of the Applicant will promptly consider what action, if any, should be initiated.

(c) Where the board of trustees believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results. Such action may include, without limitation: the sale of Portfolio securities prior to maturity to realize capital gains or losses or to shorten the Applicant's average portfolio maturity; withholding dividends or payment of distributions; or utilizing a net asset value per share as determined by using available market quotations or estimates of market value reflecting current market conditions selected by the boared of trustees as appropriate indicators of value.

3. Applicant will maintain for each Portfolio a dollar-weighted average Portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that the Applicant will not (i) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (ii) maintain a dollar-weighted average Portfolio maturity in excess of 120 days.[2]

4. Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition (1) above, and will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the considerations and actions taken by the board of trustees in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the meetings of the board of trustees. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were required to be maintained pursuant to rules adopted under Section 31(b) of the Act.

5. Applicant will limit its Portfolio investments, including repurchase agreements, if any, to those United States dollar denominated instruments which the board of trustees of the Applicant determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as detemined by the board of trustees.

6. Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition (2)(c) was taken during the preceding fiscal quarter, and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 5, 1982, at 5:30 p.m., submit to the Commission in writing a request for a hearing on an application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter order a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–4023 Filed 2–12–82; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, the Applicant will use actual quotations or estimates of market value reflecting current market conditions selected by its board of trustees in the exercise of its discretion to be appropriate indicators of value. The quotations or estimates utilized may include, *inter alia*, (1) quotations or estimates of market value for individual Portfolio instruments, or (2) values obtained from yield data relating to classes of money market instrucments furnished by reputable sources.

[2] In fulfilling this condition, if the disposition of a Portfolio instrument results in a dollar-weighted average Portfolio maturity in excess of 120 days, the Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average Portfolio maturity to 120 days or less as soon as reasonably practicable.

DEPARTMENT OF STATE

[Public Notice CM–8/489]

Presidential Commission on Broadcasting to Cuba; Partially Closed Meeting

In accordance with Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) as amended by Pub. L. 94–409 Section 5(c), notice is hereby given that the Presidential Commission on Broadcasting to Cuba will meet in open and closed sessions on Tuesday, March 2, 1982. The open session of the meeting will convene on March 2 at 2:30 p.m. in the East Auditorium of the U.S. Department of State, Washington, D.C.

The open session of the Commission meeting will allow public discussion of programming, technical, and other aspects of radio broadcasting to Cuba. The general public attending the open session may participate in the discussion or submit statements subject to instructions of the Chairman.

The purpose of the closed meeting is to discuss aspects of radio broadcasting to Cuba that should not be prematurely disclosed to the public. Documents classified under the provisions of Executive Order 12065 will also be discussed. Accordingly, it has been determined that it is in the public interest to close this meeting pursuant to 5 U.S.C. 552 b(1) and 5 U.S.C. b(c)(9).

Because entry to the State Department is controlled, members of the public who wish to attend the open session shall contact Mr. Peter P. Lord in advance in order to provide their names and affiliation and to facilitate their attendance. His telephone number is (202) 632–7440 or 632–7482. Attendees

should use the Entrance located on 21st Street NW., just off Virginia Avenue.

Ambassador George W. Landau,

Executive Director, Presidential Commission on Broadcasting to Cuba.

[FR Doc. 82-4198 Filed 2-12-82; 8:45 am]

BILLING CODE 4710-29-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. 81-94T]

Delaware River Port Authority Bridge Tolls; Order of the Administrator

The Delaware River Port Authority (DRPA) raised the tolls on the Ben Franklin, Walt Whitman, Betsy Ross, and Commodore Barry bridges effective September 1, 1981. The stated purpose for the toll increase was to fund certain maintenance, operating, and capital construction and improvement projects, and to maintain and increase reserves. The list of budgeted and approved projects, as well as planned future projects, are set forth in the Replies to Complaints, p. 2. The increase for passenger cars was from 60 cents per crossing to 75 cents per crossing. Proportional increases were imposed on other classes of users except that carpool rates were increased from $4 for a book of 40 tickets to $20 for a book of 40 tickets. A table of old and new tolls is attached (Exhibit A).

Following complaints received by the Administrator concerning the proposed September 1, 1981, toll increase, the Administrator, by Order dated August 4, 1981, established an Investigation Team pursuant to the Federal Highway Administration's (FHWA) Bridge Toll Procedural Rules (49 CFR Part 310). The Team submitted its final report on October 26, 1981, and recommended that a formal administrative hearing be held to determine one material factual issue—whether the carpool rate is reasonable.

The complainants are the Automobile Club of Southern New Jersey, Keystone Automobile Club, Paul Miller, John H. Kundts, Howard B. Norton, Jr., George Moonsammy, Greater Philadelphia Bicycle Coalition, Pennsylvania Task Force on Ridesharing, Douglas G. Gehring, William J. Doughtery, Michael Kaplan, Jeffrey P. Eves, and Metro Cab, Inc. The complaint of the National Association of Van Pool Operators, filed late, is included.

The matter is now before the Administrator to determine whether, from the record compiled by the Investigation Team, a formal hearing is required or, if not, whether the tolls imposed by the DRPA are reasonable and just.

The DRPA is an agency created by the Interstate Compact entered into by the States of New Jersey and Pennsylvania. It owns and operates the four bridges, a rail mass transit facility (PATCO), and a World Trade Division for the promotion of trade of the Philadelphia Port.

Acting pursuant to the bridge toll procedural rules, the Federal Highway Administrator sent copies of the original complaints to the DRPA. The investigation team issued a press release and contacted all known complainants to gather information concerning the toll increase. A meeting was also held with the representatives of the DRPA in order to collect data relevant to making a recommendation concerning the disposition of the investigation. The DRPA provided the investigation team with answers to the complaints, background information concerning the rationale for the toll increase, detailed financial statements, and answers to the informal inquiries of the investigation team. All of this data was considered by the investigation team in preparing their report. Further, in the submission of the final report by the Investigation Team on October 26, 1981, the parties were allowed 14 days to submit comments.

Purpose of Investigation Team

The toll bridge investigation is conducted in order to evaluate complaints filed concerning the toll increases. It is designed to discover and evaluate information justifying the toll increase and any information the complainants might have contradicting the position taken by the bridge toll owner. The ultimate purpose of the investigation is to provide a report to the Administrator which includes recommendations on whether or not the Administrator should take further action. 49 CFR 310.5. In this case, the report recommended that a formal hearing should be held.

Consideration of Necessity for a Hearing

Although the General Bridge Act of 1946 "authorizes" a hearing, nothing in the Act mandates a hearing on the question of tolls. "Port Authority Trans-Hudson v. Baum Bus Co.," 156 N.J. Super 578, 384 A. 2d 209 (1978). Nor do the Bridge Toll Procedural Rules, which state that "In proceedings under this part the Administrator determines (a) whether there are *sufficient grounds* to initiate formal adjudication concerning the reasonableness and justness of a toll schedule * * *" (emphasis supplied).

The requirement for an adjudicatory hearing does not apply in all situations in which there are issues in dispute. If only legal issues are identified as being in dispute, for example, no adjudicatory proceeding is necessary. "Costle v. Pacific Legal Foundation," 100 S. Ct. 1095 (1980); "U.S. v. Storer Broadcasting Co.," 351 U.S. 192 (1956).

The test for determining whether to call a matter for adjudication is whether there are any material factual issues in dispute. "Costle v. Pacific Legal Foundation," id., "Citizens for Allegan County, Inc. v. FPC," 414 F. 2d 1125 (D.C. Cir. 1969); "U.S. v. Consolidated Mines & Smelting Co.," 455 F. 2d 432 (9th Cir. 1971). In making this determination, the issues raised by the parties must be analyzed. A material factual issue is one that will, or could, affect the final determination. If the factual issues in dispute are not such that they would have an impact on the Administrator's final decision, no formal hearing need be held. "Costle v. Pacific Legal Foundation," id; "U.S. v. Storer Broadcasting Co.," id.

Issues Raised by Complainants

Most of the complainants challenging the toll increase are concerned about the increase in carpool tolls. These complainants questioned the tolls because the increase is believed to be disproportionate to the toll increase for other categories of users and because the increase might have an adverse environmental and fuel conservation impact. Other complainants questioned whether the construction projects identified by the DRPA as justifying the need for the toll increase were necessary. One of the complainants stated that the DRPA had sufficient reserves to support the identified projects without resort to the toll increase. Other questions raised by the complainants concerned the reasonableness of a continued subsidization of the PATCO high speed line and the lack of tolls for bicycle users on the bridges.

It should be noted that even though the majority of the complainants failed to satisfy the procedural requirements set forth in 49 CFR 310.3 all complaints were reviewed and taken into consideration. Other than the general complaints listed above, no one complained that the toll increase was not needed by DRPA or that the rate of return was not reasonable.

Are Issues Factual, Material, and Disputed?

In order to determine which, if any, material factual issues are in dispute, it was decided to review the complaints and prayers for relief submitted by all

complainants, as well as the responses of DRPA, the investigation report, and other documents of record. Where it is determined that an issue is not material, factual, and in dispute, then there is no necessity for a hearing to resolve that issue. Where an issue is not pertinent to the ultimate decision by the Administrator as to whether a rate of toll is reasonable and just, then that complaint will be dismissed. The following issues have been identified in the complaints and will be addressed below:

1. *Inadequate public notice of public hearings by DRPA; hearings were not convenient; written comments couldn't be entered into the record after the hearings.* Public notice of the toll increase, elimination of the reduced toll program, requests for written comments, as well as a schedule of hearing dates (Exhibit B) [1] was published in three newspapers of general circulation, the Inquirer, Philadelphia Bulletin, and Courier Post on June 15 and 23, 1981. Public hearings were held in Voohees Township, N.J., on June 29 and in Philadelphia, Pa., on June 30. Supplemental Reply to Complaints, ¶5.

The DRPA was *not required* by law nor regulation to hold *any* public hearings. Subsequent to the scheduled public hearings, at the DRPA meeting on July 15, 1981, in the Administration Building, Camden, N.J., the Commissioners allowed three speakers to address the issue of the proposed elimination of carpool rates, in part because the elimination of that rate was not highlighted in news articles, thus limiting participation by carpoolers at the original hearings. See Replies to Complaints, p. 10. Therefore, the complaints of no prior or inadequate public notice are not material factual issues in dispute. The convenience of the hearings is a non-issue, as is the complaint that written comments were not allowed after the hearing since such comments were taken into consideration in the DRPA review of the elimination of carpool rates. No additional factual information would be adduced at a formal hearing.

Even though not required, public hearings were held. A review of the record indicates that the notice to the public was adequate. The complaint of Michael Kaplan is dismissed. That part of the Metro Cab, Inc., complaint dealing with no prior notice is also dismissed.

2. *Betsy Ross bridge should not have been built and increased tolls burden working-class people.* Neither of these complaints is a material factual issue. The bridge has been completed and is in use; increased tolls burden all users. The complaint of William Doughtery is dismissed.

3. *Tolls should be instituted for bicyclists.* This is not a material factual issue, rather it is a policy issue. There is no dispute as to the fact that there is no toll charged bicyclists to cross the bridges. I construe the General Bridge Act of 1946 to mean that the Administrator need not decide the narrow issue of whether the toll rate structure should be applied to certain classes of users and not to others. Where there is no toll, there is nothing for the Administrator to decide re "reasonable and just tolls." Although structured as a request for the institution of tolls, the primary concern of the bicyclists is better service, including 24-hour access across the bridges. That is an issue that must be decided by DRPA and not the Administrator. Even if the Administrator had the authority and required the institution of tolls for bicyclists, he could not require the DRPA to guarantee access and other amenities. The complaint of the Greater Philadelphia Bicycle Coalition is therefore dismissed.

4. *Objections to the continued subsidization of PATCO.* There have been complaints regarding the subsidization of PATCO every time there is a toll rate increase. The current objections run the gamut from the subsidy being unfair to car drivers to its being morally improper. There is no question that PATCO is being subsidized by bridge users, but that subsidy is authorized by the amended DRPA compact between New Jersey and Pennsylvania and has been consented to by Congress. The Congressional consent to the amendment of the DRPA compact authorizes the use of revenues for nonbridge purposes:

> "Section 3 * * * (the) commission is hereby authorized to fix, charge, and collect tolls or other charges for the use of any bridge or tunnel * * * and to combine any one or more of such bridges or tunnels, with any railroad, rapid transit system, or other properties or facilities for transportation terminals or port improvement purposes * * * and combine the tolls or revenue therefrom * * *." 66 Stat. 746, 747; H.R. Rep. No. 2293, 82nd Cong. 2d Sess. 2–10 (1952).

It was obviously a policy decision by New Jersey and Pennsylvania, through its elected representatives, to subsidize non-bridge facilities.

Article I of the amended compact states in pertinent part:

> "* * * The Delaware River Port Authority * * * shall be deemed to be exercising an essential governmental function in effecting such purposes to wit: * * *
>
> (j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system * * * Such system may be established by utilizing existing rapid transit systems, * * * and by the construction or provision of new facilities where deemed necessary * * *" 78 Stat. 216, 217 (1964)

Thus, DRPA is authorized to support the operation of PATCO from bridge toll revenues, as well as to construct extensions to the PATCO line. Therefore, any decision on the reasonableness of any toll increase must take into consideration the use of toll revenues to support such other facilities. The DRPA has also indicated that revenue bonds are not a feasible alternative source of funds without a larger toll increase. Replies to Complaints, p. 22. This has not been disputed and there is no evidence in the record that it is not true.

Further, it is impossible for any State to make timely, reasoned decisions by submitting all proposals to a referendum. That is why the authority to make necessary decisions was delegated to the DRPA through the eight Commissioners appointed by each jurisdiction. Nothing has been submitted by complainants to indicate that DRPA acted unreasonably or arbitrarily in authorizing the PATCO extension. The Commission's determination appears to be the result of a reasoned decision-making process. See Replies to Complaints, pp. 2–3; "Greater Boston Television Corp. v. Federal Communications Commission," 444 F. 2d 841, 850 (D.C. Cir. 1970), cert. den., 403 U.S. 923 (1971).

For the above reasons, that part of the complaints of the Keystone Automobile Club, Paul Miller, and the Automobile Club of Southern New Jersey with respect to the continued subsidization of PATCO are dismissed.

One complaint stated that not allowing passenger vehicles for hire to participate in a toll discount program created a burden on interstate commerce.

It also stated that the DRPA, by discriminating in their toll rates while operating PATCO, created an unfair competitive practice. Both of these complaints are spurious in the instant case where, as indicated above. Congress has consented to the operation and subsidization of PATCO by DRPA. I fail to see the burden on interstate commerce where the toll imposed on a particular class is no more than the base fare prescribed for all users, i.e., $.75 per crossing. That part of the complaint of Metro Cab, Inc., that alleges the elimination of toll discounts for

[1] Exhibit B is filed with the original.

passenger vehicles for hire is a burden on interstate commerce and is an unfair competitive practice does not present factual issues in dispute. They are legal issues which are not relevant to whether the toll structure is reasonable and just, which will be discussed below; they are therefore dismissed.

5. *Objections to subsidization of the World Trade Division.* Article I of the amended Compact (78 Stat. 216) states in pertinent part some of the purposes of the DRPA are:

"(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto * * *

(d) Cooperation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware River and the Port District.

(g) The promotion as a highway of commerce of the Delaware River, and the promotion of increased passenger and freight commerce on the Delaware River and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

(h) To study and make recommendations to the proper authorities for the improvement of * * * facilities necessary for the promotion of commerce on the Delaware River.

(k) The performance of such other functions which may be of mutual benefit to * * * Pennsylvania and * * * New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels."

Section 2 of the amended Compact (78 Stat. at 221) continues the provisions of Pub. L. 573 and 574 which authorize the diversion of bridge revenues for use in construction or operation of other nonhighway facilities within the jurisdiction of the port authority. 66 Stat. 746, 747, supra.

Just as the amended Compact authorized the subsidization of PATCO, it also authorized the use of bridge funds for the promotion of commerce, which is being done through the World Trade Division. This is not a novel issue; it has been discussed in great detail in prior cases and need not be addressed again. That part of the complaint of the Automobile Club of Southern New Jersey stating that the World Trade budget is an improper charge for the bridge user is dismissed.

6. *Bridge and highway construction and improvement projects are not necessary.* Again the amended Compact sets forth the parameters within which the DRPA is authorized to work.

Article I states in pertinent part that the purpose of DRPA is:

"(a) The operation and maintenance of the bridge * * *, including its approaches, and the making of additions and improvements thereto.

(f) The construction, acquisition, operation and maintenance of other bridges * * *, including approaches, and the making of additions and improvements thereto." 78 Stat. 216.

Article IV states in pertinent part:

"For the effectuation of its authorized purposes, the commission is hereby granted the following powers:

(1) To determine that exact location, system and character of, and all matters in connection with, any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, generate, or control."

As indicated in other proceedings, the Administrator will not get involved in the internal workings of the DRPA and second guess them on the validity of any of their construction projects, especially where there is no indication that the DRPA acted unreasonably or arbitrarily. Therefore, that part of the complaints of Paul Miller, Keystone Automobile Club and the Automobile Club of Southern New Jersey with respect to certain capital construction and improvement projects not being necessary are dismissed.

7. *Reserves or financing other than bridge tolls should be used for capital construction or improvements.* It has been alleged that the DRPA has sufficient funds in its reserves to complete the projects identified as the basis for the toll increase. The Administrator recognized in the last toll proceeding that the maintenance of a health reserve for unpredictable, reasonable, long-term capital maintenance expenses appears to be necessary in the case of the DRPA.

In his Order of March 20, 1979, at p. 10 (Docket No. 78–15T), the Administrator stated that "as a matter of policy, DRPA's Board of Commissioners believes that the reserves should not be allowed to drop below $10 million, which is considered a minimum safe level to provide for major contingencies, and, in particular, for major repairs and modernization of Authority-owned facilities * * *. Because of the age of the two older bridges, unforeseeable major repairs and replacements * * * are anticipated to occur in the future." Then, as now, it was contended that the reserves should be exhausted before tolls are raised. Now, as then, the Administrator cannot agree. Using the Staff Investigation Report in the prior case (78–15T), the Administrator was able to extrapolate the end-of-year reserves for 1974–1977. (Attachment 6, Figures 3 and 4). The results show that the reserves as of December 31 were approximately $23.4 million in 1974, $23.1 million in 1975, $22.1 million in 1976, and $20 million in 1977. Pages 6 and 7 of the Replies to Complaints in the current case indicate that the reserves were $25.1 million in 1979 and $27.5 million in 1980. Without the toll increase, it is estimated that the reserves would drop to $13.7 million by the end of 1982. Obviously, the reserves could be used for capital construction and improvements, but it is undisputed that the reserves would be depleted in 1983 without the toll increase. Replies to Complaints, p. 6.

The DRPA indicated in its Replies to Complaints (p. 21–22) that the anticipated reserves at pre-September 1, 1981, toll levels would not accommodate the "Bridge Project" capital requirements of the Authority; that Revenue Bonds are not a feasible alternative source of funds without a larger toll increase; and that funds committed to "Highway Projects" are not available from New Jersey or Pennsylvania and there doesn't appear to be reason to believe such funds would be available. These assertions appear to be valid, taking into consideration the background of this and prior cases, as well as the documentation in the record.

As the Administrator stated in the prior case, the maintenance of a healthy reserve for a financial operation of this size appears to be a necessity to take care of unforeseen contingencies. Therefore, at this time, the Administrator again finds reasonable the DRPA's policy of maintaining a reserve sufficient to take care of any possible large expenditures. Considering the rate of inflation and the comparison with the end of the year reserves since 1974, the current and projected reserves with the toll increase do not appear to be unreasonable. Therefore, that part of the Complaints of the Automobile Club of Southern New Jersey and of Paul Miller with respect to the use of reserves or financing other than bridge tolls for capital construction or improvements are dismissed.

8. *Carpool rates should not be eliminated.* This is not a material factual issue. The DRPA originally proposed to completely eliminate carpool rates. After reviewing the objections by the public, the proposal was reexamined and the DRPA decided to continue a discounted rate for carpools. The complaint of John Kundts and that part of the complaint of the Keystone Automobile Club objecting to the elimination of carpool rates are dismissed.

9. *Increase in carpool rates will impact the environment and energy conservation; increase the cost of commuting; and discourage carpooling.* Many of the complaints were about the impact of the increase in carpool rates. The basic thrust of the assertions by the complainants was that the increase in the carpool rate will discourage ridesharing, causing individuals to shift to solitary driving and thereby increasing the cost of commuting and causing a detrimental impact on the environment and energy conservation. The Environmental Analysis, which was attached to the Investigation Report as Exhibit A, indicates that the toll increases will not have a significant impact on the environment. In fact, the rate of increase in traffic would be lessened, thus causing a positive impact on air quality and energy resources when compared to projections without the toll increase. Environmental Analysis, p. 2–4.

The assertion that the increase in the carpool rate will discourage ridesharing, thus causing multiple negative impacts, is based on the assumption that the negative economic impact on carpool participants would be so significant that many carpools would be disbanded.

On January 1, 1974, the carpool rate was instituted, based on the impending energy crisis. The toll was $0.25 per crossing. Decision and Order of December 21, 1973, p. 2. The new carpool rate was ineffectual in the reduction of traffic, inasmuch as only 1.18 percent of the crossings by passenger vehicles and light trucks were by carpools. See Opinion and Order of May 19, 1975, p. 16. The Administrator then substantially reduced the carpool rate to $0.10 per crossing, effective August 1, 1975, because he thought that rate should have the effect of attracting some one-passenger car commuters to a carpool. Id. p. 17.

Unfortunately, the substantial reduction did not have the desired effect, since carpools represent only about 1 percent of the total traffic. Replies to Complaints, p. 19. Utilizing the figures supplied in the Mahony letter of September 10, which indicated that total carpool traffic was approximately 846 thousand out of 67 million crossings in 980 (Environmental Analysis, p. 2), it appears that carpool traffic represented about 1.26 percent of total traffic in 1981. Based on prior experience with the carpool rate, it is quite speculative to assume that the increase in the rate would discourage carpooling. The Environment Evaluation stated on p. 6 that even with the substantial increase in the carpool rate, "there remains an incentive to carpool, and no significant switch from carpools to single occupant vehicles is anticipated."

Even assuming that the carpool rate did discourage ridesharing, the impact would be insignificant with respect to the environment and energy conservation. For the above reasons, the complaints of Jeffrey Eves, George Moonsammy and that part of the complaints of Douglas Gehring, Paul Miller, and the Pennsylvania Task Force on Ridesharing with respect to energy conservation, the environment, and discouragement of ridesharing are dismissed.

There is no dispute that the cost of commuting will increase along with the carpool rates. This will be further addressed below.

No Formal Hearings Necessary

The above review of the issues identified in the complaints indicates that many of the issues are collateral to and/or beyond the scope of the Administrator's authority in this proceeding. As a result, those few facts in dispute are not material to the ultimate decision of whether the tolls are reasonable and just. Those facts which are material have not been disputed, and will be discussed later.

The Investigation Team believed that the reasonableness of the carpool rate is a material factual issue which justifies the Adminstrator calling this matter for a hearing before an administrative law judge. Investigation Report, pp. 8–9. As stated above, where there are material factual issues in dispute, there are sufficient grounds to initiate formal adjudication; but the question as to whether the toll rates are reasonable and just is the ultimate decision of the Administrator, based on the material facts. The factual issues with respect to the increase in carpool rates were discussed above and, except for the increase in commuting costs, are not material to the ultimate decision.

For the reasons stated herein, the Administrator finds that there are no material factual issues outstanding which would necessitate a full administrative hearing.

The Requirement of Reasonable and Just Tolls

The tolls on the bridges owned by the DRPA are regulated under the General Bridge Act of 1946, 33 U.S.C. 526. That section says that the tolls must be reasonable and just and gives the Secretary of Transportation (delegated to the FHWA, 49 CFR 1.48i), the authority to prescribe reasonable rates. 66 Stat. 746, 747. The toll regulation of the General Bridge Act of 1946 restricting tolls to an amount necessary to cover maintenance and operation and to recover original costs does not apply to the DRPA bridges. 66 Stat. 746. Congress specifically waived the application of this section, 33 U.S.C. 529, to the DRPA bridges in order to allow the Authority to support its mass transit facility (PATCO) and the World Trade Division from the toll revenues. 66 Stat. 746, 747.

The past investigations and decisions concerning increases in tolls on bridges owned by the DRPA establish the tests to be applied in determining whether the toll increase is just and reasonable. The Administrator's initial decision concerning the 1978 toll increase on DRPA bridges identified three major factors to be considered in toll rate determinations: The financial need of the bridge owner, fairness to the bridge user, and the public interest. Administrator's Order of March 20, 1979, Docket 78–15T.

In reaching his decision the Administrator must properly balance and evaluate interests of the DRPA, the toll paying public, and the furtherance of nationally stated public objectives. In doing so, he must make a reasoned analysis of these issues in formulating a decision on what is just and reasonable.

1. *Financial need of the bridge owner.* With regard to the financial interest of the bridge owner, the Administrator has recognized that a reasonable and just toll is one that would provide the DRPA sufficient revenue to support its total activities including (1) operation of the bridges, (2) the PATCO rapid transit system, and (3) the World Trade Division, as well as sufficient revenue to meet the debt service requirements of the DRPA. It is significant that there was no complaint that the toll increase was unreasonable and unjust because revenues exceeded such an amount.

The DRPA had provided the Investigation Team with financial data concerning costs of projected projects, operation and maintenance expenses, accounting principles, debt service requirements, equity balance statements, balance sheets, audits, and traffic data. Prior to the completion of a financial analysis of the toll increase, the Team stated that preliminary indications were "that the DRPA's financial figures are correct and its rationale for the toll increase is justified". Investigation Report, p. 9. The supplementary financial report was subsequently completed and sent to all parties. A review of the financial report in conjunction with the other financial data does nothing to dispel the preliminary indications of the Team. The

Administrator, when looking at the budget and expenses of DRPA, will not substitute his judgment for that of the Commission in the operation of the DRPA. For that reason, those schedules attached to the supplementary financial report which exclude certain capital project and/or World Trade operations were not considered in this determination. Those issues have been thoroughly discussed. (Supra, pp. 8–10). The remaining schedules, Nos. 1 and 5, were then compared with the schedules provided by DRPA. Replies to Complaints, pp. 6, 7.

While is it obvious that a lower base toll of $0.70 and a carpool rate of $5.00 would provide a sufficient return to support total DRPA activities in the short term, the estimated reserves (equity) would drop precipitously in 1983 to $9.2 million. This would be below the $10 million which was considered the *minimum* safe level three years ago. The DRPA stated the following in its notice of hearing: "* * * It is critical that reserves be maintained and increased * * *." Replies to Compliants, pp. 1–2. This has not been disputed. Assuming even a 10 percent rate of inflation in the past three years and no great increase in future budgeted expenses, it would be reasonable to increase the *minimum* safe level to $13.3 million. This issue was not addressed by the parties since only the Automobile Club of Southern New Jersey implied that capital projects could be financed out of annual operating and reserves fund surpluses when it discussed the elimination of certain capital projects. This issue really boils down to what is an *adequate*, as opposed to a *minimum*, reserve. As indicated earlier on pp. 10–11, the projected reserves with the toll increase, considering all factors, are not unreasonable.

Although there were no complaints with regard to the bond and debt service ratio, this is another factor which has been considered when determining whether the tolls were reasonable and just in past toll rate cases. The total bond and debt service ratios in Schedules 1 and 5 of the supplementary financial report and the ratios derived from the Replies to Complaints (pp. 6, 7) are set forth in Exhibit C under the estimated reserves. There is a correlation between the reserves and the ratios.

In order to maintain adequate reserves, there must be an increase in the net income before "other payments." These "other payments" include the PATCO operating loss, budgeted capital, and special capital. See the financial reports, Schedules 1 and 5, and Replies to Complaints, pp. 6, 7. Since the bond and debt service totals remain relatively constant, where there is an increase in net income, there is a corresponding increase in the bond and debt service ratio.

While there are bond indenture covenants which require the DRPA maintain a revenue bond service coverage ratio of 1.2, that ratio has no relation to the "other payments", which will be increasing each year. If the net income exceeds the total of "other payments", the surplus is added to the reserves. Where there is a deficit, the reserves are reduced by that amount.

Although the estimated total bond and debt service ratios may appear high in some instances, that ratio is a result of the increase in net income which is required to maintain adequate reserves.

Fairness to the bridge user. There was only one complaint about the overall toll increase, and it only indicated that the increase was unwarranted, especially for commuters. The majority of the complaints from the toll paying public were related to the increase in the carpool rate. There was one compliant about passenger vehicles for hire not being able to participate in any special or reduced rate program, which was formerly available to them.

Absent a showing of an oppressive economic effect on a great number of toll payers, factual evidence of economic hardship would not be relevant to a decision. The determination of use charges requires the exercise of judgment and discretion, and is an activity that fairly may be described as legislative. There is nothing in the record to support any complainant's contention that DRPA acted unreasonably or arbitrarily in establishing the tolls.

In this case, tolls are imposed upon a class or group, *e.g.*, all carpools using the bridge. DRPA's action in establishing the charges was not targeted or directed at any specific individual.

Insofar as carpools are concerned, many of the factual issues have already been discussed, but the material fact is that there was a 400 percent increase in the carpool toll rate, from $4.00 to $20.00 for a book of 40 tickets. There is no dispute as to that fact. The issue is whether the increase results in an unreasonably and/or unjust toll.

The Environmental Evaluation states that "[d]ue to the size of the toll rate increase, the economic impact to the individual would be minimal." It also goes into considerable detail on the impact on the various classes of users. Investigation Report, Attachment A, pp. 5–7. The computations appear to be valid and are undisputed. While that evaluation took into consideration a standard size car, a distance of 9 miles per commute, the cost of operation at 24.6 cents per mile, and an average of 45.3 crossings, I also looked at the increase in cost based solely on the toll alone. Using 45.3 crossings per month, the rates per crossing are 47 cents for commuter automobile and 50 cents for carpools. That comes to about 544 crossings per year or 272 round trips. Assuming a 5-day work week, with 10 days vacation and 10 holidays per year, it is reasonable to state that the average commuter works 240 days per year. This averages out to 20 days per month, which would require 40 crossings. Using 40 crossings per month (480 crossings per year), the nominal rate per crossing for commuter automobiles and for carpools is the same—50 cents. The following table illustrates the differences in the toll rates and costs:

NOMINAL RATES AND COSTS

	Pre-Sept. 1, 1981	Sept. 1, 1981	Increase
Auto	$0.60	$0.75	$0.15
Commuter	.40	.50	.10
(year)	192.00	240.00	48.00
Carpool	.10	.50	.40
(year)	48.00	240.00	192.00
Carpool/3	.03⅓	.16⅔	.13⅓
(year)	16.00	80.00	64.00

Based on the above table, it can be observed that the cost of tolls at the commuter rate has increased $48.00 per year. The cost of tolls in a three person carpool has increased $64.00 per person per year, but the overall cost of only $80.00 per person is still one-third of the $240.00 that the single occupant commuter vehicle must pay for tolls during the year. For a larger carpool, the cost per person is even less.

The raise in carpool rates, although it does involve a greater percentage increase, leaves the carpoolers with a continued discount. The economic loss to the individual is limited when approximate out-of-pocket costs for tolls go from $1.33 to $6.67 per month, an increase of $5.34.

I find that neither the commuter rate nor the carpool rate is unreasonable, taking into consideration all relevant factors. Also, there should be no question regarding the application of carpool rates to vanpools. Although the reduction of the carpool rate would not make a substantial difference in the DRPA's income (Supplemental Investigation Report), it would continue

an inequitable rate which has had minimal impact on the number of carpools.

Part of the complaint of Metro Cab, Inc., which was predicated on the fact that it had advertised in the yellow pages that it pays all bridge tolls, has already been discussed. The remaining issue is whether it was reasonable for the DRPA to discontinue a discounted toll for passenger vehicles for hire.

The Administrator has taken notice of the Camden (Cherry Hill, Pennsauken and vicinity) yellow pages and reviewed advertising under the following categories: "Chauffeur Service", "Limousine Service", and "Taxicabs".

In the October 1980 edition, after a review of pp. 209, 516–517 and 898–900, only one advertisement mentioned tolls. On p. 899, the Century Cab Company stated "WE PAY THE BRIDGE TOLLS".

In the October 1981 edition, Metro Cab Company did not mention tolls (p. 209), nor did the advertisements for Rapid Rover (pp. 526, 527 and 913). On p. 912, Metro Cab Company advertised its Casino Connection and stated "WE PAY THE BRIDGE TOLL". In addition, there was the following statement: "'MEDICAB' DISCOUNT PROGRAM FOR SENIOR CITIZENS". Also on p. 912 was a large advertisement by the Century Cab Company which made no mention of bridge tolls. Obviously, lower rates can be used by a business to induce more customers to use that service.

It should be noted that at the top of p. 1 of the yellow pages, there was the following notation: "(Listings Corrected to August 14, 1981)". While Century Cab Company made the decision to remove the statement regarding their payment of bridge tolls, Metro, for whatever reason, did not. The DRPA rationale for discontinuing the discounted rate for passenger vehicles for hire appears reasonable. Supplemental Reply to Complaints. I see no reason to reverse that decision.

3. *Public interest.* This factor is related to the furtherance of nationally stated public objectives. The Investigation Team indicated that relevant public interests include the public policy favoring the conservation of fuel and the interest of the toll-paying public in just and reasonable tolls. Investigation Report, p. 6. The effect of the carpool rate on fuel conservation has already been discussed, as has the financial needs of the DRPA.

Conclusion

In deciding whether tolls are reasonable and just the Administrator must make careful and subtle judgments in reconciling the relevant contradictory interests. In a prior case involving DRPA tolls, the court said in *DRPA* v. *Tiemann*, 403 F. Supp. 1117 (1975), at 1127, n. 22:

> Furthermore, the agency's determination must be considered in terms of the result reached, rather than the particular path chosen. *Hope Natural Gas, supra; Wisconson* v. *FPC, supra.* As the Supreme Court observed in *Hope Natural Gas:*
>
> It is not theory but the impact of the rate order which counts. If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the Act is at an end.

For the reasons stated herein, the Administrator finds that the toll schedule adopted by the DRPA and effective as of September 1, 1981, is reasonable and just. Therefore, all the complaints filed herein are dismissed, including that of Metro Cab, Inc., the Automobile Club of Southern New Jersey, the Pennsylvania Task Force on Ridesharing, Howard Norton, Jr., Paul Miller, Douglas Gehring, and the National Association of Van Pool Operators.

In accordance with the Toll Bridge Procedural Rules, 49 CFR 310.16, it is the intention of the Administrator to limit the effect of his final Order to a period of 2 years and 6 months, measured from September 1, 1981, the date the new toll rates went into effect.

The Administrator's authority under 49 CFR 310.16 to freeze toll rates for a set period when there has been no formal hearing was fully discussed in the prior case (Docket No. 78–15T). Order of the Administrator dated December 31, 1979. In that case, the Administrator considered a fully developed record and held that, based on the record, the toll rates are reasonable. He then held that his March 20 and May 8 Orders to that effect are a "final decision" within § 310.16. Id. p. 4. The current case is similar and the same rationale applies.

The decision to limit the effect of this Order to 2 years and 6 months is based on the fact that the projected estimated reserves will drop during 1984 to a level below the amount which could reasonably be considered a minimum safe level.

Within 20 days after the date of this Order, any party may petition the Administrator for reconsideration of this Order, and after due consideration of such petitions, the Administrator will take appropriate action.

Issued this 18th day of January 1982.

R. A. Barnhart,

Federal Highway Administrator.

EXHIBIT A—DELAWARE RIVER PORT AUTHORITY SCHEDULE OF TOLLS

	Rate before Sept. 1, 1981	Rate on and after Sept. 1, 1981
Passenger automobiles and trucks to and including 7,000 pounds gross weight	$0.60	$0.75
Passenger automobiles and trucks to and including 7,000 pounds gross weight with one axle trailer	.90	1.25
Each additional trailer axle	.30	.50
Motorcycle	.40	.50
Buses:		
2-axle	.80	1.00
3-axle	1.20	1.50
Trucks—2 or more axles, 7,001 pounds or more gross weight, per axle	.85	1.00
Commutation rate for passenger automobiles and 2-axle trucks up to and including 7,000 pounds gross weight—decal valid for 30 days after date of purchase	6.00	10.00
Plus cash toll per crossing	.25	.25
Car Pool commutation rate for registered passenger automobiles only, occupied by three (3) or more persons (including driver)—accepted at all times—transferrable book of 40 tickets, valid until the end of the calendar month following the month in which purchased	4.00	20.00
Senior citizen rate for qualifying elderly person operating or passenger in passenger automobile or 2-axle truck up to and incluidng 7,000 pounds gross weight. Book of 20 tickets, valid indefinitely. (No more than two (2) coupon books may be purchased at one time.)	NA	6.00
Special permits (non-commercial motor vehicle 60,001 pounds gross weight and upward, commercial vehicles operating under official permit):		
Permit fee	10.00	12.50
First 40,000 lbs	1.50	1.90
Each additional 2,000 lbs or fraction thereof	.25	.30
Bus and Truck Scrip (25 crossings):		
	.80	.90
	1.20	1.35
	1.70	1.80
	2.55	2.70
	3.40	3.60
	4.25	4.50

EXHIBIT C.—ESTIMATED RESERVES; TOTAL BOND DEBT SERVICE RATIO[1]

[In thousands of dollars]

Base/carpool rates	1980	1981	1982	1983	1984	1985
60¢/$4	27,481	23,066	13,677	(7,886)	(30,715)	(69,395)
	(1.38)	(1.30)	(1.19)	(1.06)	(0.96)	(0.69)
75¢/$20	27,481	25,869	27,307	17,444	6,166	(21,246)
	(1.38)	(1.40)	(1.61)	(1.52)	(1.41)	(1.05)
70¢/$5	27,481	25,081	23,067	9,226	(6,137)	(37,443)
	(1.38)	(1.37)	(1.44)	(1.32)	(1.21)	(0.89)
75¢/$5	27,481	25,869	27,025	16,846	5,214	(22,594)
	(1.38)	(1.40)	(1.60)	(1.50)	(1.39)	(1.04)

[1] Ratio is under the reserve amount for each year.

[FR Doc. 82-3996 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP81-15; Notice 2]

Jeep Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Jeep Corporation of Southfield, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.101–80, Motor Vehicle Safety Standard 101–80, *Controls and Displays*. The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Paragraph S5.2.1 and Table 1 of Standard No. 101–80 require that certain hand-operated controls on any motor vehicle manufactured on or after September 1, 1980, be identified with the appropriate International Standards Organization (ISO) symbol. At its option, the manufacturer may also provide identifying words. Use of an identifying word was mandatory before September 1, 1980 and no symbols were required.

Jeep estimated that it has produced approximately 38,000 vehicles since September 1, 1980, in which the hazard warning control knob is identified only by the word "HAZARD", compliant with Standard No. 101, but noncompliant with Standard No. 101–80. Jeep argued that the use of the previously acceptable wording creates no safety hazard as it is readily understandable by the public.

No comments were received on the petition.

The true issue in this noncompliance is whether failure to employ the symbol is inconsequential as it relates to motor vehicle safety, rather than whether continued use of the wording creates a safety hazard. In this instance, where the control continues to be identified by words, the failure to provide the mandatory symbol may be deemed an inconsequential noncompliance. Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety and its petition is hereby granted.

The engineer and attorney responsible for this notice are John Carson and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and CFR 501.8)

Issued on February 5, 1982.

Courtney M. Price,

Associate Administrator for Rulemaking.

[FR Doc. 82-3863 Filed 2-12-82; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 82-32]

Petroleum Volumetric Conversion Tables

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This document advises that Customs will use newly developed standard volume correction factors for measurement corrections for all importations of petroleum and petroleum products. These tables have been developed to replace the petroleum measurement tables which currently are being used by Customs.

DATE: Customs will begin using the new tables on March 18, 1982.

FOR FURTHER INFORMATION CONTACT: Alice M. Rigdon, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8151).

SUPPLEMENTARY INFORMATION:

Background

To ensure proper control of imported petroleum and petroleum products and uniform, complete, and reliable statistics relating to the importation of these products, by T.D. 80–142, published in the **Federal Register** on May 30, 1980 (45 FR 36376), various parts of the Customs Regulations relating to imported petroleum and petroleum products were amended.

Pursuant to § 151.41, Customs Regulations (19 CFR 151.41), on the entry summary for petroleum or petroleum products imported into the United States in bulk, the importer must show the API gravity at 60 degrees Fahrenheit, in accordance with the current edition of the ASTM–IP Petroleum Measurement Tables (American Edition), published by the American Society for Testing and Materials (ASTM).

Customs uses these tables, which are accepted by the petroleum industry as the standard for oil custody transfers, for measuring the volume and quantity of imported petroleum and petroleum products. They were developed in the later 1940's and are based upon crude and fraction data which as published in 1916. It now has been demonstrated that the present tables are not applicable to many crude oils of current economic importance.

In view of the need for more accurate measurement tables which are better suited to the present level of technology, the American Petroleum Institute (API) has developed, and the API and ASTM have released new standard volume correction factors (API Standard 2540, ASTM Standard D1250, Institute of Petroleum (IP) Standard 200; API and ASTM First Edition (1980)).

These volume correction factor tables and related tables are used worldwide in custody transfer and accounting operations to adjust bulk volumes of crude oil and products measured at temperatures other than base temperature (60 degrees F or 15 degrees C) to the base temperature. These tables have been accepted for use by API, ASTM, IP (United Kingdom) and the International Organization for Standardization (ISO), and they supersede all previous editions of ANSI/ASTM D1250, IP 200, and API 2540.

Because these correction factors provide the most up-to-date means for computing measurement corrections and because they are presently the industry standard, Customs has determined that, effective March 18, 1982, all such computations shall be made in accordance with these revised tables.

These tables are available from ASTM. They are not available from Customs.

Drafting Information

The principal authors of this document were Lawrence P. Dunham and Gerard J. O'Brien, Jr., Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: February 9, 1982

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 82-3998 Filed 2-12-82; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 31
Tuesday, February 16, 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
Equal Employment Opportunity Commission	1
Federal Home Loan Bank Board	2
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Postal Service	4
Securities And Exchange Commission.	5

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Wednesday, February 17, 1982.

PLACE: Commission Conference Room, 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Freedom of Information Act Appeal No. 81-11-FOIA-320, concerning a request for all documents and technical studies discussing impact of EEOC's proposed rules under the Equal Pay Act on private pension plans.
2. Freedom of Information Act Appeal No. 81-12-FOIA-67-PA, concerning a request for documents in a Title VII investigative case file.
3. Freedom of Information Act Appeal No. 81-12-FOIA-033-NO, concerning a request for confidential witness statements.
4. Freedom of Information Act Appeal No. 81-12-FOIA-335, concerning a request for an internal memorandum concerning the Proposed Guidelines on Employment Discrimination and Reproductive Hazards.
5. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

(In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission for several years has provided recorded announcements *a full week in advance* on future Commission sessions. Please telephone (202) 634-6748 for information on the time, place and subject matter of such meetings.)

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued February 10, 1982.

[S 222-82 Filed 2-11-82; 1:43 pm]

BILLING CODE 6570-06-M

2

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, February 18, 1982.

PLACE: 1700 G Street, NW., board room, six floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

MATTERS TO BE CONSIDERED:

Delegation of Authority to Negotiate Consent Orders
Merger; Increase in Accounts of an Insurable Type—First Savings and Loan Association, Bowie, Texas *into* Continental Savings Association, Freeport, Texas
Branch Office Application—Home Federal Savings and Loan Association, Atlanta, Georgia
Application for General Trust Powers—The Heart Federal Savings and Loan Association, Auburn, California
Merger; Increase of Accounts of an Insurable Type—Brazos Savings and Loan Association of Texas, Bryan, Texas *into* Waco Savings and Loan Association, Waco, Texas
Transfer and Repurchase of Government Securities
Subordinated Debentures
Delegation of Authority Regarding Merger Approvals

[No. 8, February 11, 1982.]

[S-221-82 Filed 2-11-82; 10:21 am]

BILLING CODE 6720-01-M

3

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: 2:30 p.m., Tuesday, February 23, 1982.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Auto visors (Docket No. 785).
5. Investigation 701-TA-145 (Preliminary) (Steel Wire Nails from Korea)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary; (202) 523-0161.

[S-223-82 Filed 2-11-82; 1:47 pm]

BILLING CODE 7020-02-M

4

POSTAL SERVICE

(Board of Governors)

Vote To Close Meeting

On February 8, 1982, the Board of Governors of the United States Postal Service voted to close to public observation its meeting of March 1, 1982. Each of the members voted in favor of closing this meeting, which is expected to be attended by the following persons: Governors Hardesty, Babcock, Camp, Hughes, Jenkins and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Secretary of the Board Cox; Counsel to the Governors Califano; and Assistant Postmaster General Cummings.

The meeting to be closed will consist of a discussion of Postal Service strategic planning.

The Board is of the opinion that public access to this discussion would be likely to disclose information in connection with future collective bargaining and information that will become involved in future rate litigation.

Accordingly, the Board of Governors has determined that, pursuant to section 552b(c)(10) of title 5, United States Code, and § 7.3(c) of title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. 552b(b)), because it is likely to disclose information in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of title 39. The Board determined further that, pursuant to section 552b(c)(1) of title 5 and § 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding or the initiation of a

particular case involving a determination on the record after opportunity for a hearing. It also determined, pursuant to section 552b(c)(9)(B) and § 7.3(i) of title 39, Code of Federal Regulations, that the discussion is exempt because premature disclosure of information to be discussed would be likely significntly to frustrate implementation of future action in regard to future collective bargaining. The Board further determined that the public interest does not require that the Board's discussion of this matter be open to the public.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portions of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), (9)(B) and (10) of title 5 and sections 410(c) (3) and (4) of title 39, United States Code, and § 7.3 (c), (i), and (j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S219-82 Filed 2-10-82; 4:37 pm]

BILLING CODE 7710-12-M

5

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 5399, February 4, 1982.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, February 1, 1982.

CHANGES IN THE MEETING: Additional items.

The following additional items will be considered at a closed meeting scheduled for Wednesday, February 9, 1982, following the 10 a.m. open meeting:

Regulatory matters bearing enforcement implications.
Freedom of Information Act appeal.
Settlement of administrative proceeding of an enforcement nature.

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth determined by vote that Commission business required consideration of these matters and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Mendelsohn at (202) 272-2091.

February 9, 1982.

[S-220-82 Filed 2-11-82; 9:46 am]

BILLING CODE 8010-01-M

federal register

Tuesday
February 16, 1982

Part II

Department of the Interior

Fish and Wildlife Service

Request for Information on Species To Be Added to Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

DEPARTMENT OF THE INTERIOR

50 CFR Part 23

Request for Information on Species To Be Added to Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is a treaty regulating international shipments of certain animal and plant species, which are listed in appendices to CITES. The United States, as a Party to CITES, may propose amendments to Appendix I or II for consideration by the other Parties.

The purpose of this notice is to invite information from the public about unlisted species that the Service might consider for inclusion in Appendix I or II. This is in addition to an earlier request for information concerning the status of North American species that are already listed in the appendices.

DATE: The Service will consider all information received by May 31, 1982, in identifying species that should be proposed for listing in the appendices.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 7:45 a.m. to 4:15 p.m., Monday though Friday, in room 536, 1717 H Street, N.W., Washinton, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: The Service is beginning some of its preparations for the Fourth Regular Meeting of the Conference of the Parties to CITES, which is now planned to be held around April 1983 at Gaborone, Botswana. As part of its preparation, the Service is seeking information on wildlife and plant species to be considered for inclusion in Appendix I or II of CITES. A previous notice (46 FR 33534; June 30, 1981) invited information from the public concerning the status of species presently listed in Appendix I or II that are native to North America.

Procedures

Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily threatened with extinction may become so unless trade in them is strictly controlled. It also includes species that must be subject to regulation in order that trade in other listed species may be brought under effective control. Such listings frequently are adopted because of the difficulty in distinguishing specimens of currently or potentially threatened species from other species at ports of entry. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade.

Any Party nation may propose amendments to Appendices I and II for consideration at meetings of the Conference of the Parties. The text of any proposal must be communicated to the CITES Secretariat at least 150 days before the meeting. (The Parties also agreed that any proposal to transfer a population of an Appendix I species to Appendix II to enable trade in ranched specimens should be submitted at least 330 days before the meeting). The Secretariat must then consult the other Parties and interested intergovernmental bodies, and communicate their responses to all Parties not later than 30 days before the meeting. Amendments are adopted by a two-thirds majority of the Parties present and voting.

The service is examining the status of species that may be candidates for listing as part of its responsibility to carry out the functions of the Scientific Authority of the United States for purposes of CITES. The scope of this examination is worldwide. The U.S., as a Party, may propose amendments to Appendix I or II concerning species of animals and plants occurring in any naition or in international waters. The purpose of this notice is to request information that might lead the Service to develop proposed amendments or to recommend that other Parties develop proposed amendments for consideration at the Fourth meeting of the Parties.

Copies of the criteria adopted by the Parties for adding, transferring, or deleting species, the information requirements for proposals, and the present appendices may be obtained from the Service's Office of the Scientific Authority (address given above).

Potential Candidates

Information now available indicates that it might be appropriate to propose adding the following species of North American plants to Appendix I or II, particularly those which have been previously identified as candidate species for listing under the Endangered Species Act in the Service's Notice of Review (45 FR: 82480–82569, December 15, 1980) and for which there is evidence of actual or potential international trade. This list is preliminary and is subject to further review and revision. Comments on the appropriateness of each listing are being sought from all interested parties, particularly from the professional botanical and horticultural communities.

Family Berberidaceae (Barberry family)
- *Mahonia (=Berberis) nervosa* var. *mendocinensis* (Hardy Creek barberry) App. I.
- *M. nevinii* (Nevin's barberry)—App. I.
- *M. pinnata* ssp. *insularis* (Island barberry)—App. I.
- *M. sonnei* (Truckee barberry)—App. I.

Family Crassulaceae (Orpine family)
- *Dudleya*—all species (approx. 40, native to U.S. and Mexico) to App. II except the following:
- *D. bettinae* (San Luis Obispo serpentine dudleya)—App. I.
- *D. blochmaniae* ssp. *insularis* (Santa Rosa Island dudleya)—App. I.
- *D. brevifolia* (Short-leaved dudleya)—App. I.
- *D. candelabrum* (Candleholder liveforever)—App. I.
- *D. cymosa* ssp. *marcescens* (Santa Monica Mts. dudleya)—App. I.
- *D. densiflora* (San Gabriel Mtn. dudleya)—App. I.
- *D. multicaulis* (Many-stemmed dudleya)—App. I.
- *D. nesiotica* (Santa Cruz Island liveforever)—App. I.
- *D. parva* (Serpentine of Conejo dudleya)—App. I.
- *D. saxosa* ssp. *soxosa* (Panamint liveforever))—App. I.
- *D. traskiae* (Santa Barbara Island dudleya)—App. I.
- *D. variegata* (Variegated dudleya)—App. I.
- *D. virens* (Bright-green liveforever)—App. I.
- *D. viscida* (Sticky dudleya)—App. I.
- *Echeveria* (Liveforever, hen-and-chickens, flor de pietra, mec, orejo de burro, concha, etc.). All North American species (approx. 150), mostly Mexican, to App. II.
- *Graptopetalum bartramii* (n.c.n.)–App. I
- *Sedum albomarginatum* (Feather River stonecrop)—App. I.
- *S. laxum* ssp. *eastwoodiae* (Red Mtn. stonecrop)—App. I.
- *S. laxum* ssp. *flavidum* (Pale yellow stonecrop)—App. I.
- *S. moranii* Moran's stonecrop)—App. I.
- *S. oblanceolatum* (stonecrop)—App. I.
- *S. obtusatum* ssp. *paradisum* (Canyon Creek stonecrop)—App. I.
- *S. pinetorum* (Pine City stonecrop)—App. I.
- *S. pusillum* (Puck's stonecrop)—App. I.
- *S. robertsianum* (Stonecrop)—App. I.
- *S. rosea* var. *roanensis* Roan Mtn. roseroot)—App. I.

Family Diapensiaceae (Diapensia family)

Shortia galacifolia (Oconee-bells)—App. I.
Family Droseaceae (Sundew family)
Dionaea muscipula (Venus flytrap)—App. II.
Family Ericaceae (Health family)
Rhododendron chapmanii (Chapman's rhododendron)—App. I.
R. prunifolium (Plumleaf azalea)—App. I.
Family Fouquieriaceae (Candlewood family)
Fouquieria (=Idria) columnaris (Boojum tree)—App. II.
F. fasciculata (Abrol de Barril)—App. II.
F. purpusii (n.c.n.)—App. I.
Family gentianaceae (Gentian family)
Gentiana bisetaea (Gentian)—App. I.
Family Liliaceae (Lily family)
A. gave arizonica (New River agave)—App. I.
A. chisosensis (Chisos agave)—App. I.
A. eggersiana (n.c.n.)—App. I.
A. parviflora (Santa Cruz striped agave)—App. I.
A. schottii var. *treleasei* (Trelease's agave)—App. I.
A. toumeyana var. *bella* (Toumey's agave)—App. I.
A. utahensis var.*eborispina* (Ivory-spined Utah agave)—App. I.
A. utahensis var. *nevadensis* (Clark Mt. agave)—App. I.
A. victoria-reginae (Queen Victoria agave)—App. I.
Calochortus clavatus var. *avius* (Pleasant Valley mariposa lily)—App. I.
C. clavatus ssp. *recurvifolius* (Arroyo de la Cruz mariposa lily)—App. I.
C. coeruleus var. *westonii (Shirley Meadows mariposa lily)—App. I.*
C. dunni (Dunn's mariposa lily)—App. I.
C. excavatus (Inyo mariposa lily)—App. I.
C. greenei (Greene's mariposa lily)—App. I.
C. howellii Howell's mariposa lily)—App. I.
C. longebaratus (Sego lily, Long-bearded star-tulip)—App. I.
C. obispoensis (San Luis Obispo mariposa lily)—App. I.
C. persistens (Siskiyou mariposa)—App. I.
C. striatus (Alkali mariposa lily)—App. I.
C. tiburonensis (Tiburon mariposa lily)—App. I.
Fritillaria brandegei (Greenhorn fritillary)—App. I.
F. eastwoodiae (Butte fritillary)—App. I.
F. falcata (Talus fritillary)—App. I.
F. gentneri (Gentner mission-bells)—App. I.
F. liliacea (Fragrant fritillary)—App. I.
F. pluriflora (Adobe-lily)—App. I.
F. roderickii (Roderick's fritillary)—App. I.
F. striata (Striped adobe-lily)—App. I.
F. viridea (San Benito fritillary)—App. I.
Lilium fairchildii (Farichild's lily)—App. I.
L. grayi (Gray's lily)—App. I.
L. iridollae (Panhandle lily)—App. I.
L. occidentale (Western lily)—App. I.
L. parryi (Perry's lemon lily)—App. I.
L. pitkinense (Pitkin Marsh lily)—App. I.
L. vollmeri (Vollmer's lily)—App. I.
L. washingtonianum var. *minus (Shasta lily)—App. I.*
L. wigginsii (Wiggins' lily)—App. I.
Nolina interrata (Dehesa beargrass)—App. I.
Yucca arizonica (Arizona yucca, Datil)—App. I.
Y. endlichiana (Pitilla)—App. I.
Y. madrensis (Soco)—App. I.
Family Polemoniacease (Phlox family)
Phlox bifida spp. *stellaria* (Cleft phlox)—App. I.
P. caryophylla Phlox)—App. I.
P. cluteana (Navajo Mtn. phlox)—App. I.
P. dolicantha (Bear Valley phlox)—App. I.
P. hirsuta (Yreka phlox)—App. I.
P. idahonis (Clearwater phlox)—App. I.
P. longipilosa (Long-haired phlox)—App. I.
P. nivalis ssp. *texensis (Trailing phlox)—App. I.*
P. peckii (Peck's phlox)—App. I.
P. pulchra (phlox)—App. I.
Family Portulacaceae (Purslane family)
Lewisia cantelowii (Cantelow's lewisia)—App. I.
L. congdonii (Congdon's lewisia)—App. I.
L. cotyledon (Lewisia)—App. I.
L. maguirei (Maguire's lewisia)—App. I.
L. megarhiza (Lewisia)—App. I.
L. oppositifolia (Opposite-leaved lewisia)—App. I.
L. pygmaea ssp. *longipetala (Long-petaled lewisia)—App. I.*
L. serrata (Saw-toothed lewisia)—App. I.
L. stebbinsii (Stebbins' lewisia)—App. I.
Family Ranunculaceae (Crowfoot or Buttercup family)
Hydrastis canadensis (Goldenseal)—App. II.
Trollius laxus ssp. *laxus* (Eastern spreading globeflower)—App. I.
Family Saxifragaceae (Saxifrage family)
Carpenteria californica (Carpenteria, tree-anemone)—App. I.
Family Scrophulariaceae (Figwort family)—All to Appendix I:
Penstemon alamosensis
P. barrettiae
P. bicolor
P. californicus
P. glaucinus
P. haydenii
P. lemhiensis
P. peckii
P. tidestromii

Information also indicates that it might be appropriate to propose removal of the following plants from Appendix II:

Family Palmae
Chrysalidocarpus lutescens (Yellow palm).
Family Solanaceae
Solanum "sylvestre" (Invalid name).

Schedule

The schedule that the Service plans to follow in developing proposals (apart from the review of North American species presently listed in Appendix I or II) is as follows:

July 1982—Publication of notice announcing species selected as candidates for U.S. proposals.
October 1982—Publication of notice announcing decisions on U.S. proposals that will be submitted for consideration by the Parties at their fourth meeting.
November 1982—Submission of U.S. proposals to the CITES Secretariat.
April 1983—Negotiation of proposals at the Fourth Meeting of the Parties.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority.

Dated: Febraury 8, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-4020 Filed 2-12-82; 8:45 am]
BILLING CODE 4310-55-M

federal register

Tuesday
February 16, 1982

Part III

Department of Energy

Office of Conservation and Renewable Energy

Loans for Wind Energy Systems and Small Hydroelectric Power Projects

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 794

[Docket Number CAS-RM-81-406]

Loans for Wind Energy Systems and Small Hydroelectric Power Projects

AGENCY: Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy proposes to issue rules establishing procedures for making and administering direct loans for the development of wind energy systems and of small hydroelectric power projects. These procedures are being proposed only in order to comply with the statutory directives described more fully below. The Department has recommended that the Congress appropriate no funds for either of these loan programs.

DATES: Comments must be received on or before 4:30 p.m. April 19, 1982. Requests to speak must be received on or before February 26, 1982. The date of the public hearing is March 9, 1982.

ADDRESSES: Send comments and requests to speak to Department of Energy, Hearings and Dockets, Mail Stop 6B-025, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: CAS-RM-81-406. The public hearing will be held at the Forrestal Building, Room GE-085, 1000 Independence Avenue, SW., Washington, D.C., at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT:
(As to Wind Energy Systems) Peter Goldman, Wind Energy Technology Division, Office of Conservation and Renewable Energy, 1000 Independence Avenue, SW., Room 5F-081, Washington, D.C. 20585, (202) 252-1995
(As to Small Hydroelectic Power Projects) John Flynn, Geothermal and Hydropower Technologies Division, Office of Conservation and Renewable Energy, 1000 Independence Avenue, SW., Room 5F-035, Washington, D.C. 20585, (202) 252-4198
(As to Legal Matters) Carol A. Cowgill, Office of General Counsel, 1000 Independence Avenue, SW., Room 6B-158, Washington, D.C. 20585, (202) 252-9513, or Diane Stubbs, Office of General Counsel, 1000 Independence Avenue, SW., Room 6F-067, Washington, D.C. 20585, (202) 252-2440

SUPPLEMENTARY INFORMATION:

I. Background.
II. Review Under Executive Order 12291 and OMB Circular A-116.
III. Review Under the Regulatory Flexibility Act.
IIV. Review Under the National Environmental Policy Act.
V. Proposed Rules.
VI. Comment and Public Hearing Procedures.

I. Background

Solely in order to comply with statutory mandates established by the Congress, the Office of Department of Energy (DOE) today proposes program rules for soliciting and processing applications for direct loans to support the development of wind energy systems and small hydroelectric power projects. These rules are required to be established by section 6 of Wind Energy Systems Act of 1980, Pub. L. 96-345 (Wind Act), and Title IV of the Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617 (PURPA).

DOE wishes to make clear that it does not believe the Federal government should make direct loans to promote purchase and installation of commercial wind energy systems and development of small hydroelectric power projects. Market conditions and tax credits will provide the needed incentive for private capital investments in such projects, and, as a result, direct Federal loans would be an unnecessary and wasteful expenditure of taxpayer dollars. Accordingly, DOE intends to seek appropriate legislation to ensure that Federal money not be spent on these two proposed loan programs. Pending enactment of this legislation, DOE will comply with its obligations under the Wind Act and PURPA, and continue development of the required rules.

Although the Wind Act authorizes but does not mandate the direct loan program, section 6(f)(1) requires the Secretary to establish, within six months from the date of enactment, procedures to allow public or private entities to apply for and receive direct loans for up to 75% of the total purchase and installation costs of wind energy systems. Loans must be made to a minimum of four projects providing in the aggregate not more than 320 megawatts. In addition, no loan may exceed 50% of the amount appropriated under the Wind Act for the fiscal year.

Section 401 of PURPA directs the Secretary to establish a program to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects in connection with existing dams which are not being used to generate electric power. Section 403 authorizes the Secretary to make loans to defray up to 75 percent of project costs.

II. Review Under Executive Order 12291

Today's proposal was reviewed under Executive Order 12291 (February 17, 1981). DOE has concluded that the rule is not a "major rule" because even if implemented, it would not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

III. Review Under the Regulatory Flexibility Act

Because no funds have been appropriated for these loan programs and because the Department does not intend to seek appropriations for these programs, DOE certifies, pursuant to section 605 of the Regulatory Flexibility Act, Pub. L. 96-354, that this rule will not have a significant economic impact on a substantial number of small entities. The rule, as proposed, does not impose any reporting, recordkeeping or other compliance requirements; it sets forth procedures which, if implemented, would provide small entities the opportunity to compete for financial assistance in the form of loans. Consequently, any economic impact of implementing this rule would be beneficial for small entities eligible for the loans.

IV. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of these regulations does not require preparation of an environmental assessment or of an environmental impact statement under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.* (1970)), the Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and the DOE guidelines (45 FR 20694, March 28, 1980). The regulations are procedural in nature and their issuance will not result in a predictable significant environmental impact.

A programmatic environmental assessment is being prepared in conjunction with the Comprehensive Program Management Plan which is required by the Wind Act. If loans are

ever awarded under Subpart B, DOE would complete any appropriate NEPA site specific documentation that may be required. Section 794.4(b) (18) of the proposed rule would require that each loan applicant submit an environmental report which includes any information that may be required under NEPA.

V. Proposed Rules

A. Subpart A—General Provisions

Proposed § 794.1 provides that the purpose of Part 794 is to establish policies, requirements, and procedures for the receipt, evaluation, and approval of loans for the development of wind energy systems and of small hydroelectric power projects. The scope of Subpart A is limited to the general requirements and procedures applicable to loans for both types of energy projects.

Proposed § 794.2 contains definitions of several terms used throughout Subpart A.

Subsection (a) of proposed § 794.3 provides that loan applications under each program shall be solicited and evaluated competitively. Subsection (b) describes the information that DOE would be required to include in a Solicitation Announcement, a summary of which would have to be published in the **Federal Register** and in the Commerce Business Daily.

Proposed § 794.4 sets forth the general requirements applicable to loan applications. Subsection (a) states that an applicant is expected to submit information similar to that which is required by a private lender. Subsection (b) contains a list of the basic information each applicant would be required to provide in the application. This required information includes a description of how the applicant intends to finance the development and operation of the project, the applicant's management capabilities, and the feasibility of the proposed project. In addition to specifying the amount of the loan being sought, the applicant would be required to propose the repayment schedule, collateral or security, and other terms and conditions of the loan. Subsection (c) would authorize DOE to consider a late loan application only if it is received before the Application Approving Official selects applications under the competition cycle *and* the late application was went by registered or certified mail no later than the fifth calendar day prior to the submission deadline. The applicant would be required, under subsection (e), to notify DOE in writing of any new circumstances which make any information originally submitted in the application inaccurate or incomplete. Subsection (f) provides that information submitted in loan applications may be withheld from public disclosure in accordance with the Department's regulations implementing the Freedom of Information Act.

The procedures DOE will follow in evaluating loan applications are set forth in proposed § 794.5. An Application Evaluation Panel designated by the Application Approving Official would give applications a preliminary review followed by a comparative review of the financial, technological, and management aspects of the proposed project. The Panel would be required to submit a written report to the Application Approving Official on its evaluation together with its final selection recommendations.

Proposed § 794.6 provides that the Application Approving Official shall select applications for loan agreements based on the report of the Panel, the policy considerations in proposed § 794.7, the applicable subpart of Part 794, and any other information determined to be relevant. Whenever necessary, the Application Approving Official may determine that competitive negotiations are necessary with all or a subset of applicants. The report of the Panel would have to be revised to reflect the outcome of such negotiations.

Proposed § 794.7 sets forth the policy considerations the Application Approving Official would be required to use when making selections from among similarly ranked applications. In addition to financial risk factors, these considerations include the extent of other Federal financial assistance and the competitive impact of the proposed project. The public is invited to suggest other policy considerations that should be taken into account when selecting applicants for loans under this part.

Before making a loan, DOE would be required to make the findings and determinations set forth in proposed § 794.8. Most of these determinations concern factors affecting the risk DOE would be assuming by making a loan to a particular project. For example, DOE would have to determine that the applicant is capable of constructing and competently operating the proposed project. DOE would appreciate suggestions for other findings that should be made in order to assure that loan applicant selection decisions are prudent from the standpoint of financial risk.

In the event a borrower fails to meet the terms and conditions established as loan closing prerequisites, the Application Approving Official would be authorized under proposed § 794.9(a) to re-open negotiations, to modify or terminate the loan agreement, or take other appropriate action. Whenever there has been compliance with the prerequisite terms and conditions, the date, time, and place for closing would be fixed by mutual agreement.

Proposed § 794.10 provides that because applications will be evaluated on a competitive basis, unsolicited applications would not be considered for a loan under this Part. Such applications would be returned to the applicant.

Proposed § 794.11 provides that, upon written request, DOE may provide unsuccessful applicants an opportunity to discuss why their applications were disapproved.

Proposed § 794.12 makes clear that the only representations that would be binding on the Department are those that are reduced to writing and signed by the Contracting Officer.

The standard terms and conditions proposed to be included in all loan agreements issued under Part 794 are contained in § 794.13. Four standards for patents, technology, inventions, and other proprietary rights are contained in subsection (a). The remaining proposed standard terms and conditions include requirements that the project be built and operated at a site approved by DOE; the rights to creditors to any assets securing the DOE loan be subordinated to the rights of DOE; the borrower submit annual audited financial statements to DOE; the borrower may prepay the loan at any time without prepayment penalties; and profits above a predetermined level would have to be made available for future requirements of the project or for prepayment of the loan.

Borrowers would be required, under proposed § 794.14, to allow DOE employees and authorized representatives to have access to the project site at reasonable times and under reasonable circumstances. In addition, auditors selected by DOE or the Comptroller General of the United States would have the right to examine the borrower's relevant documents and records.

Proposed § 794.15 describes the demand, payment and collateral liquidation procedures DOE may follow if a borrower defaults. One option available to DOE under subsections (a) and (b) would be to accelerate the indebtedness and demand full payment, within 30 days, of the principal and interest under the loan. Subsection (d) provides that the loan agreement shall specify the rights DOE shall have to liquidate the assets securing the loan

and other actions that may be taken in the event of default.

Proposed § 794.16 advises loan applicants that they must comply with the Department's rules on Nondiscrimination in Federally Assisted Programs, 10 CFR Part 1040 (45 FR 40514, June 13, 1980).

The Secretary would be authorized under proposed § 794.17 to permit individual deviations from the requirements of Part 794, provided such deviations were not inconsistent with Federal statute.

Proposed § 794.18 advises applicants and borrowers that nothing in Part 794 shall be construed to modify other Federal, State, regional, or local requirements for permits, licenses, or other authorizations to construct and operate the project.

General procedures for determining project costs are set forth in proposed § 794.19. Under subsection (c), DOE would be authorized to exclude or reduce any cost which, on the basis of an audit, is determined to be unnecessary or excessive.

Proposed § 794.20 sets forth the procedures and requirements for amending a loan agreement to increase the amount of a loan in the event of a cost overrun. Under proposed § 794.20(e) a loan may be increased if DOE finds that continuation of the project is worthwhile and in the public interest or that the cost of increasing the loan is less than that which would result from default.

Procedures for resolving disputes about loan agreements are set foth at proposed § 794.21. Upon the written request of a borrower, the Contracting Officer shall decide a dispute in writing. The Contracting Officer's written decision may be appealed to the Financial Assistance Appeals Board in accordance with the procedures at 10 CFR Part 1024. The Board's review jurisdiction would be limited, under subsection (e), to any final decision the Contracting Officer is authorized to make. The Board would have no jurisdiction to review DOE denials of requests for deviations or modifications under § 794.17, or any DOE action taken under 10 CFR Part 1040. The Board would be bound by all applicable laws and regulations and by the terms and conditions of the applicable loan agreement.

B. Subpart B—Wind Energy Systems

The purpose and scope of Subpart B are described in proposed § 794.100.

Proposed § 794.101 defines several terms used throughout Subpart B. The terms "conventional energy system" and "public and private entity" are taken from section 3 of the Wind Act. The definition of the latter term has been modified to make clear that Federal entities are not included. The definition of "State" is taken from section 13(b) of the Wind Act.

The term "peak generating capacity", a concept used in the Wind Act to distinguish large and small wind energy systems, is defined to mean "the maximum power output a wind energy system is designed to produce."

In this proposed rule, small and large wind energy systems would be defined to mean systems consisting of, respectively, one or more small wind machines or at least one large wind machine. The proposed definition of "wind machine" is the same definition used in section 3 of the Wind Act for the term "wind energy system". A "large wind machine" would be defined as one designed to produce a peak generating capacity of more than 100 kilowatts; a small wind machine would be one designed to produce a peak generating capacity of 100 kilowatts or less. The "wind machine" terminology has been introduced in order to make it clear that wind energy systems may consist of multiple wind machines.

Subsection (a) of proposed § 794.102 provides that a loan for a maximum of 75 percent of the total allowable purchase and installation costs of a wind energy system may be made if (1) the loan is consistent with the requirement in section 6 of the Wind Act that DOE make a minimum of four loans for projects involving a total combined capacity of not more than 320 megawatts; and (2) the amount of the loan does not exceed 50 percent of the total fiscal year appropriation for the DOE wind energy program.

Subsection (b) of this proposed section would prohibit DOE from issuing any solicitation or entering into a loan agreement after a finding by the Secretary that wind energy systems are economically competitive with conventional energy sources or after September 30, 1988, whichever occurs first. This program termination provision is required by section 6(i) of the Wind Act.

Proposed § 794.103 sets forth the eligibility requirements for loans under subpart B. Any public or private entity as defined in section 3 of the Wind Act would be eligible for assistance. An eligible project is one involving the purchase and installation of a wind energy system in a State. In addition, a small wind energy system would have to provide an aggregate peak generating capacity of at least one megawatt. A large wind energy system would have to include a minimum of five large wind machines which in the aggregate would not exceed a peak generating capacity of 80 megawatts. Finally, any wind energy system supported by a DOE grant or cooperative agreement under 10 CFR Part 417 would be ineligible for a loan.

Proposed § 794.104 described the information that would be required in an application for a loan to purchase and install a wind energy system. In addition to the project description required under § 794.4 of Subpart A of the proposed rules, the application would have to include a feasibility study as provided in § 417.23(a) of Part 417, Wind Energy Technology Application Program, proposed in 46 FR 35468 (July 8, 1981). The text of proposed § 417.23(a) follows:

"(a) A project description which includes a feasibility study containing the following elements—

(1) A wind resource assessment based on reliable wind speed data collected and recorded, at the proposed site, by an acceptable method and a minimum period of time which are specified in the program solicitation;

(2) An economic analysis determining the estimated cost of wind-generated energy (cents per kilowatt hour) as a function of—

(i) The available wind resources;

(ii) The anticipated performance of the large wind energy system;

(iii) The estimated cost of site acquisition and preparation, wind energy system purchase and installation, interconnection and transmission, and operation and maintenance; and

(iv) The estimated revenues or value to be derived from wind-generated energy;

(3) A marketing plan which identifies prospective purchasers and estimates the volume of sales of wind-generated energy;

(4) An engineering analysis identifying—

(i) The optimum location;

(ii) Configuration;

(iii) Expected system performance; and

(iv) Plans for site preparation, transportation of system components to the site, installation, power system interconnection and operation;

(5) A power system integration plan describing—

(i) Components and subsystems; and

(ii) The schedule and procedures to be undertaken to comply with requirements of relevant regulatory and financial institutions;

(6) A site development plan describing the schedule and procedures for acquiring—

(i) Licenses;

(ii) Permits; and

(iii) Any necessary property interests including land, structures, rights-of-way, access roads, and air rights;

(7) An environmental analysis evaluating all potential adverse environmental effects of installation and operation and determining alternative cost-effective and environmentally mitigating procedures;

(8) A health and safety analysis identifying occupational and public health and safety issues associated with installation and

operation and determining alternative cost-effective mitigating procedures; and

(9) A financing plan identifying—

(i) Sources and amounts of financing for construction and operation;

(ii) A cash flow statement for the first five-years of system operation;

(iii) Assumptions regarding interest rates, tax liabilities, and debt amortization."

In addition to the technical and management information described in subsections (d)–(f) of proposed § 794.104, subsection (g) would require that the application contain a title report or other documentary evidence that the applicant will have access to and be authorized to use the proposed site for at least 30 years following the end of the project period. The latter requirement is being proposed to assure that a loan is not made to someone who, after the wind energy system is installed, would not be able to operate and maintain it because of a legal deficiency preventing adequate access to and use of the site.

DOE considered but decided against proposing a requirement for applicants to set forth the terms of any warranties from proposed manufacturers and installers. It is DOE's view that an applicant's potential economic stake in the wind energy system, even with a DOE loan, would be sufficiently great to assure that the best possible warranty terms are negotiated.

The Department also considered but decided against proposing a requirement that the applicant demonstrate that the proposed large wind energy system would comply with any voluntary performance standards. At present, there are no such standards because the technology for most wind energy systems is in an early stage of development and is changing rapidly.

Proposed § 794.105(a) provides that allowable purchase and installation costs include expenses incurred for site preparation, and for purchase, delivery, storage, assembly, installation, and start-up testing of all essential system components, and for the monitoring and reporting required under § 794.107.

Subsection (b) of this proposed section makes transmission system costs allowable up to an amount not exceeding 10 percent of total allowable project costs. This percentage may be increased to a maximum of 25 percent if the applicant demonstrates that the existing transmission system is inadequate. These limitations on allowable transmission system costs were recommended in the Conference Report for the Act. H.R. Rep. No. 96–1217, 96th Cong., 2nd Sess. 12 (1980), *reprinted in 1980 U.S. Code Cong. & Admin. News 5117.*

Proposed § 794.106(a) provides that the criteria DOE would be required to use in evaluating loan applications are the same as those used to evaluate applications for financial assistance for the purchase and installation of large wind energy systems. Those evaluation criteria are:

(1) Wind resources at the proposed site;

(2) The extent of cost-sharing proposed by the applicant;

(3) Demonstrated level of performance and reliability of the proposed large wind energy system;

(4) Technical and economic feasibility;

(5) Institutional and environmental acceptability;

(6) Commercial readiness of the proposed energy system;

(7) Ability of the applicant to manage the project, to finance its share of the purchase and installation costs, and to pay for the operation and maintenance of the completed system;

(8) Suitability of the proposed site; and

(9) The relative contribution the proposed large wind system would make to the reduction of unit costs of production and the objectives set forth in Section 2(b) of the Wind Act.

As indicated in proposed § 794.106(a), the evaluation criteria are published at 10 CFR § 417.25(a) (46 FR 35468, July 8, 1981).

Subsection (b) of proposed § 794.106 provides that loan applications proposing wind energy systems with an aggregate peak generating capacity under 30 megawatts would be competitively evaluated against each other. Applications proposing over 30 megawatts or more will similarly be evaluated against each other. DOE is proposing to provide for evaluation of these two groups of applications separately because systems under 30 megawatts can be qualifying small power production facilities which are exempt from regulation under PURPA. As a result, applications involving such systems would be significantly different from all others.

Proposed § 794.107 would require that the borrower comply with the monitoring and reporting requirements prescribed at 10 CFR 417.26 (46 FR 35468, July 8, 1981). The text of proposed § 417.26 follows:

"(a) For five years after the commencement of normal operation, the assistance recipient shall monitor and report to DOE the following data:

(1) Site meteorological data;

(2) Systems performance and energy produced;

(3) Actual operating and energy produced;

(4) Types and quantities of fuel from conventional energy source displaced by the wind-generated energy.

(5) Such other items of data as described in the assistance agreement.

(b) The information required to be reported under this section shall be submitted on a form or consistent with instructions provided by DOE. The reporting frequency established by DOE in the assistance agreement shall not be less frequently than annually nor more frequently than quarterly.

(c) DOE reserves the right to modify the reporting requirements of this section on a case-by-case basis to reflect variations in the nature, size, scope, instrumentation, and management of the assisted project.

(d) The recipient shall make the project site available to authorized DOE employees or agents for the performance, at DOE expense, of on-site sampling, testing, and monitoring."

Section 6(h) of the Wind Act provides the statutory authority for these monitoring and reporting requirements.

In proposing to make borrowers subject to the monitoring and reporting requirements under 10 CFR § 417.26, DOE considered the potential burden on small entities, and on the basis of available information, concluded that the burden would not be excessive largely because the costs of data collection would be allowable under the loan agreement. The public is invited to suggest additional data that should be included in these required reports or to point out burdens of data collection which have been overlooked.

Proposed § 794.108 would require that the borrower comply with the visitation requirement set forth in 10 CFR 417.27 (46 FR 35468, July 8, 1981). The text of proposed § 417.26 follows:

"The financial assistance agreement shall specify the procedures the recipient will establish for providing opportunities for members of the public to view and inspect the system under reasonable conditions."

Section 6(h) of the Wind Act requires that assisted wind energy projects be made available for viewing and inspection by the public.

C. Subpart C—Small Hydroelectric Power Projects

Proposed § 794.200 sets forth the purpose and scope of Subpart C.

Proposed § 794.201 defines certain terms used in the subpart. These terms and definitions are taken from Section 408 of PURPA.

Proposed § 794.202 sets forth the prescribed statutory limitation on loan amount and duration. Loans for small hydroelectric power projects may be for a maximum of 75 percent of project costs for a term not to exceed 30 years.

Those eligible to receive loans under this subpart are identified in proposed

§ 794.203. This proposed section is consistent with the eligibility requirements of section 403 of PURPA.

Proposed § 794.204 specifies those special items of information which must be included in an application for a loan for a small hydroelectric power project. The applicant would be required to submit technical information which includes a detailed description of the project site and of the planned project development and output. As noted in the Preamble discussion of Subpart A, the applicant is also required to provide other general items of information when applying for a loan under either Subpart B or C of this Part.

Proposed § 794.205 defines project costs as they are defined in section 408 of PURPA. This general definition of project costs, in DOE's opinion, would provide the applicant needed flexibility in the use of loan funds to develop, construct and finance a specific project.

Proposed § 794.206(a) identifies those applicants who will be given preference in the selection of applicants for loans. PURPA requires the Secretary to give preference to applicants who do not have available alternative financing necessary to carry out the project and whose projects will provide useful information on the feasibility of the generation of electricity by the project and of the use of energy produced by the project.

Proposed § 794.206(b) sets forth certain findings which must be made prior to issuing a loan under Subpart C. These findings are required by section 403 of PURPA.

Proposed § 794.007 requires the borrower to keep records concerning the project and to permit representatives of DOE reasonable access to such records.

VI. Comment and Public Hearing Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to the proposed rules set forth in this notice. Written comments should be submitted by 4:30 p.m. April 19, 1982 to the appropriate address indicated in the "Addresses" section above and should be identified on the outside envelope and on the document with the designation "Wind Energy System Loan" or "Small Hydroelectric Power Project Loan." Fifteen copies should be submitted.

If any information is considered proprietary or confidential, it should be so identified and submitted in writting, one copy only.

B. Public Hearings

1. *Procedure for Request to Make Oral Presentation.* The time and place for the hearing are indicated in the "Dates" and "Addresses" sections above.

DOE invites any person who has an interest in the proposed rulemaking issued today, or who is a representative of a group or class of persons that has an interest, to make a written request for an opportunity to make an oral presentation by February 26, 1982. Such a request should describe the interest concerned and, if appropriate, state why the individual is a proper representative of a group or class of persons that has such an interest, give a concise summary of the proposed oral presentation, and a telephone number where this representative may be contacted during the day.

DOE will notify each person selected to appear at the hearing on or before March 2, 1982. Persons selected should bring 15 copies of their hearing statements to the hearing location.

2. *Conduct of the Hearing.* DOE reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all inititial oral statements, each person who has made an oral statement will, if time permits, be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to ask a question at the hearing may submit the question in writing to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing including the transcript, will be retained by DOE and made available for inspection at the DOE Freedom of Information Office, Room 1E–190, 1000 Independence Avenue, SW, Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., February 3, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

It is proposed to add to Part 794 to Title 10 as follows:

PART 794—LOANS FOR DEVELOPMENT OF WIND ENERGY SYSTEMS AND SMALL HYDROELECTRIC POWER PROJECTS

Subpart A—General Provisions

Sec.

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Subpart C—Small Hydroelectric Power Projects

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Authority: Wind Energy Systems Act of 1980, Pub L. 96–345, 94 Stat. 1139 (42 U.S.C. 9201); Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 (16 U.S.C. 2601); Energy Security Act, Pub. L. 96–294, 94

Stat. 611 (42 U.S.C. 8701); Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565 (42 U.S.C. 7101).

Subpart A—General Provisions

§ 794.1 Purpose and Scope.

The purpose of this Part is to establish policies, requirements, and procedures for the receipt, evaluation, and approval of loan applications and for the administration of loans for the development of small hydroelectric power projects and wind energy systems. This subpart sets forth general requirements and procedures applicable to loans for both types of energy projects (wind or hydroelectric power).

§ 792.2 Definitions.

For the purposes of this Part:

"Applicant" means any person who submits an application for a loan under this Part.

"Application Approving Official" means the Secretary or person designated by the Secretary who is authorized to approve an application for a loan under this Part.

"Application Evaluation Panel" means a panel of Federal employees appointed by an Application Approving Official to evaluate loan applications and make approval or disapproval recommendations regarding such applications.

"Borrower" means any person who enters into a loan agreement under this Part.

"Closing" means the delivery by a borrower and acceptance by DOE of the executed debt instruments and any required security instruments, together with all necessary supporting documentation; and the disbursement by DOE of all or a portion of the loan proceeds.

"Competition cycle" means the period of time announced in the **Federal Register** during which applications will be received for evaluation.

"Contracting Officer" means the Department of Energy official warranted and authorized to contractually obligate the Department of Energy and execute written agreements that are binding on the Department.

"Cost overrun" means any cost that exceeds the estimated total cost of the project as established by the Application Approving Official.

"Default" means the failure by the borrower to make payment of principal or interest in accordance with the terms and conditions of a loan issued under this Part, or the failure of the borrower to meet any other term or condition of the loan agreement.

"Loan agreement" means a written agreement and all collateral documents related to such agreement between the Department of Energy as lender and a borrower which sets forth the terms and conditions under which the Department will provide funds to a borrower.

"Secretary" means the Secretary of Energy or the Secretary's designee.

§ 794.3 Solicitation of applications.

(a) *Competition.* Loan applications shall be solicited and evaluated on a competitive basis. Separate Solicitation Announcements shall be used to request loan applications for Subpart B projects and Subpart C projects.

(b) *Solicitation announcement.* From time to time, as funds are available, DOE may issue a Solicitation Announcement requesting loan applications for Subpart B or Subpart C projects which shall as a minimum, be noticed and summarized in the **Federal Register** and the Commerce Business Daily. A Solicitation Announcement shall include the following information:

(1) The place and time for application submission;

(2) The information requirements for applications;

(3) A technical definition or identification of the projects eligible under the Solicitation Announcement;

(4) Identification of the issuing office;

(5) Identification of statutory authority and relevant regulations;

(6) Any special requirements not contained in the regulations;

(7) Identification of the time period during which written questions regarding the preparation of applications may be delivered;

(8) Application receipt deadline and location to which applications must be delivered;

(9) Date of presubmission conference, if any, open to all interested parties.

§ 794.4 Applications.

(a) An applicant is expected to provide information in the application which is similar to that required by a private financial institution which might consider a similar project for debt financing. The application must contain the most current data available, and be adequate for proper evaluation of the project.

(b) The Solicitation Announcement shall set forth the application information requirements which may include, but not be limited to, the following:

(1) A full description of the scope, nature, extent, and location of the proposed project;

(2) The extent to which the applicant expects to apply for, or has already applied for, or is receiving any other Federal or other government financial assistance for the project;

(3) A copy of a detailed feasibility study relating to the facility that contains evidence of the facility's technical and economic feasibility and environmental acceptability;

(4) A description of prior construction, operating and other relevant experience of the applicant with the technology to be utilized in the project;

(5) Projections and analysis demonstrating the likelihood that the amount of the loan requested, together with equity and any other financing, will be sufficient to complete the facility and its startup period, and provide sufficient working capital;

(6) Detailed schedules for the project including major activity and cost milestones;

(7) Copies of proposed or actual project-related contracts together with a description of the contractor's experience and financial strength;

(8) An analysis of the market for the energy to be produced including relevant economics justifying the analysis and proposed marketing contracts or letters of intent, if any;

(9) A description of the applicant management concept and plan of operation to be employed in carrying out the project;

(10) Information covering the management experience of each officer or key person in the applicant's organization who will be associated with the facility and a description of salaries (and other financial remuneration including profit sharing and stock options) to be paid to officers and key employees that are, or will be, directly associated with the facility;

(11) A description of the general management experience of the applicant in organizing and undertaking projects of this nature;

(12) A description of the proposed source(s) of funds for repayment of the loan;

(13) Pro forma cash flow statements for a least the first five years of project operation including income statements and balance sheets. All such statements shall include assumptions made in their preparation;

(14) Proposed risk allocation among project participants and financial statements supporting the project participants' ability to contribute the necessary equity to the project;

(15) Financial statements for the past three (3) years of the applicant and parties relevant to the applicant's financial backing, together with a description of the business and financial interests of principal organizations such

as parent and/or subsidiary corporations or partners of the applicant;

(16) Certification of the financial statement by a certified public accountant or equivalent certification acceptable to the Secretary;

(17) A copy of the applicant's deed or lease agreement to the property on which the facility is to be constructed or installed, supported by title opinion or other acceptable evidence of the applicant's rights to the property. In the event that the applicant does not have title to or a leasehold interest in the property, a detailed discussion of the applicant's efforts to obtain rights to the property including discussion of the current status of such efforts, a detailed discussion or outline of the necessary steps to obtain such rights, and a schedule for completion of all such steps;

(18) An environmental report containing a detailed analysis of the potential environmental, health, safety and socio-economic (EHSS) impacts of the project and any necessary or proposed mitigation measures and other relevant data that may be available to the applicant to enable the Department to assess the probable EHSS impacts, and to provide the Department with any information that may be required under the National Environmental Policy Act;

(19) A list of all permit applications filed or to be filed, and permit approvals issued or to be issued by Federal, state, and local government agencies for all required permits and authorizations to undertake the project. If these approvals have not been obtained, or applications not filed, the estimated date of such filings and approvals should be provided. Explain any past, present or anticipated problems in obtaining any approvals;

(20) A description of the applicant's organization and, where applicable, a copy of the partnership agreement or corporate charter, articles of incorporation, bylaws, and appropriate authorizing resolutions or their equivalent;

(21) The amount of the loan requested, proposed repayment schedule, servicing procedures, security or collateral, and other terms and conditions of the loan;

(22) A copy of any existing or proposed lending commitment or agreement for any loan;

(23) A listing of assets associated with the project and any other asset which will serve as collateral for the loan, including appropriate data as to the value and useful life of any physical assets and a description of any other associated security and its value.

(c) *Receipt and handing of applications.*

(1) Applications for loans shall be filed at the address specified in the Solicitation Announcement.

(2) An application received at the location of filing after 4:30 p.m. on the last day of the competition cycle will not be considered unless—

(i) It is received before the selection of application by the Application Approving Official under that competition cycle; and

(ii) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of the application.

(d) An applicant shall not be permitted to modify applications after the close of the competition cycle, except as provided in paragraph (e) of this section, in § 794.5(d) or in § 794.6(b).

(e) When information submitted by the applicant under this rule or in response to a request for additional information made by the Secretary is significantly changed as a result of new circumstances which make the originally submitted information inaccurate or incomplete, the applicant shall promptly notify DOE in writing.

(f) Information submitted by loan applicants shall be subject to disclosure and withholding in accordance with DOE's rules implementing the Freedom of Information Act (5 U.S.C. 552) at Part 1004 of this Title.

§ 794.5 Evaluation of applications.

(a) The Application Evaluation Panel or other appropriate DOE officials designated by the Application Approving Official shall determine the eligibility of applicants and projects, and shall evaluate and rank applications in accordance with the applicable program requirements.

(b) The Panel shall conduct a preliminary review and screening of all applications to determine which applications should be considered in comparative evaluations. The Panel shall review the applications to determine whether each application:

(1) Complies with statutory requirements for project eligibility;

(2) Complies with the eligibility requirements of this Part and any set forth in the Solicitation Announcement; and

(3) Is signed by an authorized official of the applicant organization.

Any application which does not comply with the requirements of this paragraph shall be returned to the applicant.

(c) Those applications meeting the requirements of paragraph (b) of this section shall be comparatively evaluated and ranked by the Panel. The Panel shall consider the following evaluation criteria in comparatively ranking applications;

(1) Ability of the applicant to comply with the requirements of the Solicitation Announcement and this Part;

(2) Technical project feasibility and likelihood of success;

(3) Market potential and economic feasibility;

(4) Financial—

(i) Credibility of cost estimates;

(ii) Adequacy of capitalization, cash flow, working capital, and other measures of financial capability;

(iii) Financial condition of applicant and other principals to the project;

(5) Financing structure—

(i) Financial commitment of applicant and other principals to the project;

(ii) Debt financing plan;

(iii) Other factors which are relevant to a full description of the financing structure of the proposed project;

(6) The degree of risk to DOE during both the interim and permanent financing stages of the project, including the length of time over which the proposed borrower will repay the loan (with regard to the anticipated cash flow and useful life of the project);

(7) Management plan—

(i) Corporate and personnel experience;

(ii) Management organization and interrelationship; and

(iii) Key personnel and associated responsibilities;

(8) Environmental, health, safety and socioeconomic impacts of the proposed project; and

(9) Such additional evaluation criteria as may be set forth in the Solicitation Announcement.

(d) The Panel may, in the course of evaluating the application, request additional information of the applicant that may be necessary to complete its evaluation.

(e) The Panel shall submit a written report to the Application Approving Official on its evaluation of the applications together with its findings and recommendations concerning final selections.

§ 794.6 Selection of applications.

(a) The Application Approving Official may, in his or her discretion, select any number of the competing applications, subject only to the requirement that appropriations be available for the total amount of the loans selected for approval.

(b) If, prior to making a decision, the Application Approving Official determines that additional project information is required, a written

request for the information shall be sent to the applicant.

(c) The Application Approving Official shall consider the report of the Panel, such other information as the Application Approving Official determines to be relevant and the policy considerations specified in § 794.7 and applicable subparts of this Part in selecting applications for loan agreements.

(d) When the Application Approving Official determines that competitive negotiations are appropriate, DOE shall negotiate with all or a subset of competing applicants for the purpose of clearly defining the comparative merits of the competing applications prior to final selection. The Panel report to the Application Approving Official, shall be revised to reflect the results of such negotiations.

(e) Upon the completion of the procedures contained in this section, the Application Approving Official may authorize the Contracting Officer to issue a loan agreement for the project proposed by a selected applicant. The loan agreement shall identify the terms and conditions of the loan, including those which must be satisfied prior to closing, and any additional requirements to be placed upon the applicant as a condition of the loan.

§ 794.7 Policy considerations.

The following policy considerations and other policy considerations set forth in relevant subparts of this Part may be utilized by the Application Approving Official in the selection of applications from among those applications recommended by the Application Evaluation Panel:

(a) The degree to which the borrower is investing equity funds into the project which were not provided through the issuance of debt, and the extent to which responsible financial parties affiliated with or constituting the legal entity of the borrower are liable for repayment of the debt;

(b) The length of time over which the proposed borrower will repay the debt, with regard to the anticipated cash flow of the project and the degree of risk to the Government;

(c) Competition factors associated with the concentration and control of energy production that may result from the issuance of a loan in connection with a particular energy project; and

(d) The extent of other Federal financial assistance the project is receiving or is eligible to receive.

§ 794.8 Required findings and determinations.

A loan may be made only after DOE makes the following findings and determinations:

(a) The amount of the loan, when combined with other funds available to the applicant, shall be sufficient to carry out the project, including adequate contingency funds and working capital;

(b) There is a reasonable assurance of repayment of principal and interest of the loan by the borrower;

(c) The project assets or other acceptable forms of collateral or surety, as determined by the Secretary to be necessary, are pledged by the borrower as security for the repayment of the loan and a valid first and superior lien or other acceptable lien position will exist on such assets, collateral, or surety for the benefit of DOE;

(d) The terms, conditions, maturity, security, and repayment provisions with respect to the loan are reasonable and sufficient to protect the interest of the United States;

(e) The disbursement schedule for advancing loan proceeds to the borrower is satisfactory;

(f) The applicant is capable of constructing and competently operating the project for which the loan is made; and

(g) The findings and determinations required under Subparts B or C of this rule, as appropriate, have been made.

§ 794.9 Pre-closing requirements.

(a) If, within a reasonable period of time, the Contracting Officer determines that the borrower has failed to meet the terms and conditions established as prerequisites to loan closing the Contracting Officer shall so advise the Application Approving Official in writing. A copy of such determination shall be sent to the borrower. The Application Approving Official shall determine whether to continue negotiations, authorize modification or termination of the loan agreement, or take other appropriate action.

(b) If the Contracting Officer determines that the borrower has met the terms and conditions established as prerequisites to closing of the loan, the Application Approving Official shall authorize the loan closing. The date, time and place for closing shall be fixed by mutual agreement. Nothing in the section shall restrict the authority of the Contracting Officer from requiring additional documentation from the borrower.

§ 794.10 Unsolicited applications.

Because DOE will evaluate applications on a competitive basis, unsolicited applications for loans under this part will not be considered and will be returned to the applicants.

§ 794.11 Discussion with unsuccessful applicants.

Upon written request by an applicant whose application did not result in a loan, representatives of the Application Approving Official may explain to an unsuccessful applicant why the application was disapproved.

§ 794.12 Non-written representations.

No representation shall be binding on the Department unless it is reduced to writing and signed by a Contracting Officer. No instrument or modification thereof shall be considered approved by the Department unless it is signed by a Contracting Officer.

§ 794.13 Loan agreement terms and conditions.

A loan agreement issued by DOE under this Part shall contain or meet the following requirements and conditions;

(a) The following requirements concerning patents, technology, inventions, and other proprietary rights:

(1) A requirement that any inventions conceived or first actually reduced to practice in the course of or under the project, any patents or patent applications thereon, except for those in which title vests in the United States Government, as well as all technology and other proprietary rights developed under the project shall be the property of the borrower (or its participants or its contractors) and shall be collateral for the loan. The provisions of this paragraph shall apply to and be binding on the borrower's contractors and participants, and the borrower shall obtain the written agreement of such parties to these provisions.

(2) A requirement that the borrower agree to grant nonexclusive licenses in all patents, technology and other proprietary rights owned or controlled by the borrower which are necessary for completion and operation of the project or which have been utilized in the project: (i) In the event of default, royalty free to the entities selected to complete and operate the project only for the purpose of completing and operating the project; and (ii) regardless of whether there is a default, on equitable terms, including due consideration to the amount of the United States Government default payment, to the United States Government and its designees for the purpose of constructing and operating similar projects. The provisions of this paragraph shall apply to and be binding on the borrower's participants, and the

borrower shall obtain the written agreement of such parties to these provisions.

(3) A requirement that the borrower agree to secure a license in any patents, technology or other proprietary rights of third parties which are bought or licensed for the project on behalf of the project, and inuring to the benefit of successor owners and/or operators of the project under terms and conditions no less favorable than applicable to the project.

(4) A requirement that the term "participants" shall mean the owners of the borrower, the members of a consortium or other legal entity comprising the borrower, and others with a financial or equity interest in the borrower. The term "contractor" shall mean the party being awarded a contract, regardless of tier.

(b) A requirement that no change of project ownership or financial arrangement occur without the prior written consent of DOE;

(c) A requirement that the project be built and operated at a site approved by DOE;

(d) A requirement that the borrower not obtain credit from any creditor without the written consent of the Contracting Officer, unless such creditor agrees to subordinate, in a manner acceptable to the Contracting Officer, its rights to receive payment in the event that such creditor would, without such subordination, receive by contract or otherwise a lien on the assets securing the loan issued by DOE;

(e) A requirement that the loan agreement contain provisions that comply with § 794.15 regarding default and demand.

(f) A requirement that the borrower keep and make available adequate records and documents concerning the construction and operation of the project in order that DOE may determine the technical and financial conditions of the project and its compliance with the requirements of the loan agreement;

(g) A requirement for the borrower to prepare and deliver to DOE annual audited financial statements prepared according to generally accepted accounting principles;

(h) A requirement that duly authorized representatives of the Secretary shall have access to the project site at reasonable times during construction and operation of the project;

(i) A requirement that the borrower agree to protect and preserve at all times the project assets and other collateral serving as security for the loan;

(j) A requirement that performance of contractors engaged in the construction of the project for which the loan is made be fully bonded or that other acceptable arrangements are made that assure adequate performance by contractors;

(k) A requirement that the borrower execute all documents necessary to perfect and maintain liens on collateral pledged as security for the loan;

(l) A requirement that the project operate in full compliance with all applicable laws and regulations;

(m) A requirement that the invalidity of any clause, part, or provision of the loan agreement shall not affect the validity of the remaining portions of the loan agreement;

(n) A requirement that the loan agreement shall provide an option on the part of the borrower to prepay the loan at any time without prepayment penalties;

(o) A requirement that the borrower shall furnish DOE, in writing, the name(s) of the individual(s) authorized to act on behalf of the borrower and shall notify DOE, in writing, of any change in its representatives;

(p) A requirement that the borrower keep the assets of the project insured in an acceptable amount from risk of loss, and acceptable provisions for control over any insurance proceeds paid in the event of such a loss to assure that such proceeds are appropriately utilized for the repair, reconstruction or replacement of the project assets or to repay the principal and interest on the loan;

(q) A requirement that the borrower shall be in default if the borrower at any time prior to the completion of the project abandons or ceases work on the project for more than 30 days;

(r) A requirement that the borrower shall not permit any judgment, lien, or other encumbrance to be placed against any asset of the project, excluding those liens obtained pursuant to the loan agreement or with the prior written consent of DOE;

(s) When appropriate, a requirement for control over project revenue which ensures that profits above a predetermined level are made available to the project for the future requirements of the project or for prepayment of the loan; and

(t) Such other terms and conditions as determined by DOE to be reasonable and necessary for the protection of the interests of the Unted States.

§ 794.14 Access to records and project site.

Employees and authorized representatives of DOE shall have access at reasonable times and under reasonable circumstances to the project site. Auditors selected by DOE or the Comptroller General of the United States shall have access to, and the right to examine, all relevant documents and records of the borrower. The borrower shall assure availability of information to permit DOE to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, the requirements of this Part and other matters pertinent to the loan.

§ 794.15 Default, demand, payment and collateral liquidation.

(a) In the event that the borrower defaults in the making of required payments of principal or interest on the loan, and such default is not cured within the grace period provided in the loan agreement, or in the event that the borrower fails to comply with any term or condition of the loan agreement, or other contractual obligation relating to the transaction, the borrower shall be in default and DOE shall have the right to accelerate the indebtedness and demand full payment of all amounts outstanding, both principal and interest, under the loan.

(b) The borrower shall have a period of not more than 30 days from the date of demand to make payment in full. Unless the Secretary issues a written waiver of default, the Secretary's failure to make demand at any time shall not constitute a waiver of any rights or remedies available to the Secretary.

(c) Should the borrower fail to pay after demand, as provided in paragraph (b) of this section, the Secretary shall undertake collection in accordance with the terms of the loan agreement and applicable law.

(d) The loan agreement shall specify the rights of DOE with respect to the liquidation of assets securing the loan and other actions that may be taken by DOE in the event of default.

§ 794.16 Nondiscrimination in Federally assisted programs.

Applicants who apply for loans under this Part shall be required to comply with the Department's rules on Nondiscrimination in Federally Assisted Programs, 10 CFR Part 1040 (45 FR 40514 (June 13, 1980)).

§ 794.17 Deviations.

To the extent that such requirements are not specified by statute, the Secretary may authorize a deviation for an individual applicant or borrower from the requirements of this Part upon a finding that such deviation is essential to program objectives and is in the best interests of the United States.

§ 794.18 Compliance with other statutes.

Nothing in this Part shall be construed to modify requirements imposed on the borrower by Federal, State, regional and local government agencies in connection with permits, licenses, or other authorizations required to construct and operate the project.

§ 794.19 Project costs.

(a) Project costs shall be recorded in accordance with generally accepted accounting principles which are consistently applied.

(b) Those reasonable and customary costs that have been incurred, are expected to be incurred, and which are directly related to the project shall be used to estimate total project costs.

(c) DOE may audit any or all cost elements included in the estimated project costs, and reserves the right to exclude or reduce the amount of any cost which is determined to be unnecessary or excessive. The borrower will make available records and other data necessary to permit DOE to carry out such an audit. In carrying out this responsibility, DOE may utilize employees of other Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant or other competent authority.

§ 794.20 Cost Overruns.

(a) A cost overrun is any cost which exceeds the estimated total cost of the project established by DOE prior to or at the time of execution of a loan agreement.

(b) When an overrun is anticipated, DOE must be notified promptly and provided with the reasons for the overrun.

(c) At the discretion of DOE and subject to the availability of loan funds, a loan agreement may be amended to increase the amount of the loan in the event that either the estimated cost to complete the project or the actual project cost incurred exceeds the originally estimated project cost.

(d) The borrower must submit all of the following information before DOE may determine whether to increase the loan to cover cost overruns:

(1) A revised expected completion date, if applicable, and a revised cost estimate for the project;

(2) A plan indicating how the borrower's share of the cost overrun will be funded;

(3) A description of the additional collateral, if any, to be pledged for the increased loan; and

(4) Updated information on the project economics indicating that a reasonable assurance of repayment of the loan (including the requested increase) still exists.

(e) Subject to the requirements of paragraph (d) of this section, DOE may agree to increase the loan for the project if DOE finds that:

(1) The continuation of the project is worthwhile to meet the program's objectives and is in the public interest; or

(2) The probable net costs to the Government in increasing the loan will be less than that which would result from a default.

(f) In no event may the loan be increased to an amount that exceeds the maximum amount or percentage share of costs set forth in the applicable subpart of this Part.

§ 794.21 Dispute resolution procedures.

(a) At the written request of a borrower, the Contracting Officer shall decide any dispute authorized for review under paragraph (d) of this section, and any dispute concerning a loan agreement with the borrower under this Part. The decision of the Contracting Officer may be appealed to the Financial Assistance Appeals Board (the Board) in accordance with Part 1024 of this Title. The Contracting Officer's authority under this subsection shall not extend to any DOE action taken under Part 1040 of this Title.

(b) Within 30 days after receiving a dispute resolution request under paragraph (a) of this section, the Contracting Officer shall mail (by certified mail) to the requesting party a brief written decision containing the following information:

(1) A summary of the requesting party's complaint;

(2) The Department's response or demand; and

(3) The factual, legal, and policy reasons for the Department's final decision.

(c) Each written decision issued by the Contracting Officer under paragraph (b) of this section shall include the following paragraph or similar language approved by the Officer of General Counsel:

This is the final decision of the Contracting Officer. This shall be the final decision of the Department of Energy unless, within 60 days from the date you receive this letter, you deliver or mail (by certified mail) a written notice of appeal to the Financial Assistance Appeals Board at the address indicated below. Copies of your notice must be mailed (by first class mail) to the Director, Procurement and Assistance Management Directorate, and to the Office of General Counsel, GC-44, Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. Your notice of appeal should refer to this decision, note that you intend an appeal and briefly state why you think this decision is wrong. You will be notified of further proceedings related to your appeal. A copy of DOE Procedures for Financial Assistance Appeals is enclosed for your reference.

(d) Except as otherwise provided in paragraph (a) of this section, the Contracting Officer may decide any post-loan agreement disputes including, but not limited to, the following:

(1) A determination that the borrower has failed to satisfy the terms and conditions of the loan agreement prerequisite to loan closing;

(2) A determination that the borrower is in default;

(3) Collateral liquidation;

(4) Determination and collection of deficiencies; and

(5) A determination that the borrower has failed to comply with any requirement of this Part or with the terms and conditions of the loan.

(e) Review on appeal. The Board may review any final decision the Contracting Officer is authorized to make under this section, except that the Board shall have no jurisdiction to review DOE denials of requests for deviations or modifications under § 794.17 of this Part. In reviewing such decisions, the Board shall be bound by all applicable laws and regulations, including the requirements of this Part, and by the terms and conditions of any applicable loan agreement.

Subpart B—Wind Energy Systems

§ 794.100 Purpose and scope.

This subpart sets forth the special procedures and requirements for awarding and administering direct loans for the purchase and installation of wind energy systems. This subpart also prescribes requirements for recording and reporting operation and maintenance data.

§ 794.101 Definitions.

For purposes of this subpart—

"Act" means the Wind Energy Systems Act of 1980, Pub. L. 96-345.

"Conventional energy source" means energy produced from oil, gas, coal, or nuclear fuels.

"Feasibility study" means a study to determine the technical and economic feasibility and institutional and environmental acceptability of undertaking a project to purchase and install a wind energy system at a specific site.

"Large wind energy system" means a system consisting of at least one large wind machine.

"Large wind machine" means a wind machine which is designed to produce a

peak generating capacity of more than 100 kilowatts.

"Normal operation" means the unattended operation of the wind energy system after installation and debugging and putting energy from the system on line.

"Operating and maintenance costs" means those costs incurred after commencement of normal operation asssociated with operating and with maintaining a wind energy system so that it continues to perform satisfactorily over its design lifetime.

"Peak generating capacity" means the maximum power output a wind system is capable of producing in normal operation.

"Public and private entity" means any individual, corporation, partnership, firm, association, agricultural cooperative, public or investor owned utility, public or private institution or group, and state or local government agency, or any other non-Federal domestic entity.

"Small wind energy system" means a system consisting of one or more small wind machines.

"Small wind machine" means a wind machine which is designed to produce a peak generating capacity of 100 kilwatts or less.

"State" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States, including the Trust Territory of the Pacific Islands.

"Wind machine" means a system of components which converts the kinetic energy of the wind into electricity or mechanical power and which comprises all necessary components including energy storage, power conditions, control systems, and transmission systems, where appropriate, to provide electricity or mechanical power for residential, agricultural, commercial, industrial, utility or governmental use.

§ 794.102 Funding limitations.

(a) Except as otherwise provided by statute enacted subsequent to the effective date of this subpart, a loan for a maximum of 75 percent of the total allowable purchase and installation costs of a wind energy system may be made, provided—

(1) The loan is consistent with the requirement in section 6 of the Act that DOE make a minimum of four loans for projects involving a total combined capacity of not more than 320 megawatts; and

(2) The amount of the loan does not exceed 50 percent of the total fiscal year appropriation for the DOE wind energy program.

(b) DOE shall not issue a solicitation for or enter into any loan agreement under this subpart after September 30, 1988 or after the Secretary determines that wind energy systems have become economically competitive with conventional energy sources, whichever occurs first.

§ 794.103 Eligibility requirements.

Any public or private entity is eligible to receive a loan under this subpart for the purchase and installation of a wind energy system in a State, provided—

(a) The proposed small wind energy system would provide an aggregate peak generating capacity of at least one megawatt; or

(b) The proposed large wind energy system includes a minimum of five large wind machines and would not exceed an aggregate peak generating capacity of 80 megawatts; and

(c) The purchase and installation of the proposed wind energy system are not supported by a grant or cooperative agreement under Part 417 of this Title.

§ 794.104 Application requirements.

An application for a loan under this subpart shall contain—

(a) A project description as prescribed in § 794.4 of subpart A of this Part;

(b) A feasibility study as described in § 417.23(a) of Part 417 of this Title;

(c) The number and type of proposed wind machines, including existing and proposed meterological equipment;

(d) The names, addresses, and qualifications and experience of the manufacturers, designers, and installers of the principal components of the proposed wind energy system, including meterological equipment;

(e) The number, length, voltage, interconnection, age, condition and location of any transmission lines to be constructed or modified as part of the project, including any new facilities required to put energy from the wind system on line;

(f) Topographical maps, diagrams, site plan, and photographs showing the location of the proposed project;

(g) A title report or other documentary evidence that that applicant will have access to and be authorized to use the proposed site for at least 30 years following the end of the project period.

§ 794.105 Allowable project costs.

(a) Allowable project costs under this subpart shall include all reasonable and necessary expenses of purchasing and installing a wind energy system. Such costs shall include expenses incurred for site preparation and for purchase, delivery, storage, assembly, installation, and start-up testing of all essential system components, and for the monitoring and reporting required under § 794.104 of this subpart.

(b) Allowable transmission system costs may not exceed 10 percent of total allowable wind energy systems costs. If the applicant demonstrates that the existing transmission system is inadequate to transport electricity from a wind energy system to an electric power grid, the costs of such transmission system may be allowed up to a maximum of 25 percent of total allowable system costs.

§ 794.106 Evaluation criteria.

(a) Applications for loans for large and small wind energy systems under this subpart shall be evaluated on the basis of the criteria set forth in § 794.5 of Subpart A of this Part and § 417.25(a) of Part 417 of this Title.

(b) Loan applications for projects proposing wind energy systems with an aggregate peak generating capacity of not more than 30 megawatts shall be evaluated competitively against each other. Applications proposing projects designed to generate 30 megawatts or more of power shall be competitively evaluated against each other.

§ 794.107 Monitoring and reporting requirements.

The borrower shall comply with the monitoring and reporting requirements set forth in § 417.26 of Part 417 of this title.

§ 794.108 Visitation.

The borrower shall comply with the visitation requirements set forth in § 417.27 of Part 417 of this title.

Subpart C—Small Hydroelectric Power Projects

§ 794.200 Purpose and scope.

This subpart sets forth the special procedures and requirements for awarding and administering loans for the construction of small hydroelectric power projects at existing dams.

§ 794.201 Definitions.

For purposes of this subpart—

"Electric cooperative" means any cooperative association eligible to receive loans under section 4 of the Rural Electrification Act of 1936 (7 U.S.C. 904).

"Existing dam" means any dam, the construction of which was completed on or before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in

connection with the installation of any small hydroelectric power project.

"Industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of the Internal Revenue Code of 1954.

"Municipality" means a city, county, irrigation district, drainage district, or other political subdivision or agency of a State competent under the laws thereof to carry on the business of developing, transmitting, utilizing, or distributing power.

"Nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1954 and exempt from tax under section 501(a) of such Code (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) to such organization).

"Person" means an individual, corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing.

"Small hydroelectric power project" means any hydroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 30,000 kilowatts of installed capacity.

"State" means a State, the District of Columbia, and Puerto Rico.

§ 794.202 Funding limitations.

(a) Loans made pursuant to this subpart shall be for a maximum of 75% of the project costs of small hydroelectric power projects.

(b) Each such loan shall be for such term as the Secretary deems appropriate, but not in excess of 30 years.

§ 794.203 Eligibility requirements.

Any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person is eligible to receive a loan under this subpart.

§ 794.204 Application requirements.

In addition to the application requirements set forth in § 794.4 of Subpart A of this Part, an application for a loan under this subpart shall contain—

(a) A description of the proposed dam and penstock condition or natural water feature, and a description of the condition of any in-place equipment, including fish ladders;

(b) Evidence of the date of construction of the dam; its electric power output when last used, and its type of construction;

(c) A description of recreational or other uses placed on water to be used by the project;

(d) A complete description of the applicant's renovation plan and schedule, and a description of the type and rating of any turbine-generator to be placed in the project;

(e) A description of the dam's head, water flow, and expected kwh production (including assumptions used in its computation), and a description of existing transmission lines and distance to the proposed buyer of the project's electric output; and

(f) An estimate of the cost of constructing any fish ladders.

§ 794.205 Allowable project costs.

Allowable project costs under this subpart shall include the cost of acquisition or construction of all facilities and services and the cost of acquisition of all land and interests in land used in the design and construction and operation of a small hydroelectric power project.

§ 794.206 Findings and determinations.

(a) In selecting applicants for loans under this subpart, preference shall be given to applicants who do not have available alternative financing in an amount which is deemed appropriate by DOE to complete the project and whose project will provide useful information as to the technical and economic feasibility of the generation of electricity by the project and the use of energy produced by the project.

(b) In addition to the requirements set forth in § 794.8 of Subpart A of this Part, a loan may be made under this subpart only after DOE finds—

(1) That the project will be constructed in connection with an existing dam or that it will utilize a natural water feature;

(2) That all licenses and other required Federal, State, regional and local government agency approvals necessary for development of the project have been issued. However, the Secretary may enter into a commitment to issue a loan to an applicant who has not met this requirement. The commitment period shall not exceed 3 years unless the Secretary in consultation with the Federal Energy Regulatory Commission, extends the commitment period for good cause shown by the applicant. Despite the existence of any such commitment, no loan shall be approved by the Secretary before the applicant has fully complied with the requirement of this paragraph;

(3) That the project will have no significant adverse environmental effects, including adverse effects on fish and wildlife, on recreational or any other use of the water to be used by the project, or on stream flow; and

(4) That the estimated total cost of the project includes the cost of constructing fish ladders when required by a government agency.

§ 794.207 Project monitoring and audit.

The borrower shall keep such records concerning the project as are required by generally accepted accounting principles, and such other records as DOE deems necessary. Representatives of DOE may have access, for the purpose of audit and examination, to any pertinent records or other documents of the borrower during the regular business days, and may require that copies of such documents be provided to DOE by the borrower.

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Part IV

Department of Agriculture

Food and Nutrition Service

Summer Food Service Program; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 225

Summer Food Service Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule limits sponsor and geographic area eligibility for participation in the Summer Food Service Program (SFSP); prohibits sites serving milk under the Special Milk Program from participation in the SFSP; changes the requirements for the conduct of audits in the Program; and makes several minor changes in requirements to increase State agency administrative flexibility. The changes in sponsor eligibility are mandated by Congress in the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35. The other changes result from the Department's experience in administering the Program including recommendations made by task forces convened by the Food and Nutrition Service.

EFFECTIVE DATE: January 1, 1982. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the recordkeeping or reporting provisions that are included in this final rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained. A document itemizing those sections will be published in the **Federal Register** within 10 days.

ADDRESSES: The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from either Mr. Jordan Benderly or Ms. Beverly Walstrom, Child Care and Summer Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 416, 3101 Park Center Drive, Alexandria, Virginia 22303, or by telephone at (703) 756–3888.

Copies of all written comments on the proposed rule are available for review during normal business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Jordan Benderly, Director, Child Care and Summer Programs Division, Food and Nutrition Service (703) 756–3888.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291 and has not been classified as major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete. The rule has also been reviewed with regard to the requirements of Pub. L. 96–354. Pursuant to that review, Gene P. Dickey, Acting Administrator of the Food and Nutrition Service, has certified that this rule does not have a significant economic impact on a substantial number of small entities.

Background

The SFSP is authorized by Section 13 of the National School Lunch Act. Comprehensive regulations for the SFSP were last published on January 21, 1981 (46 FR 6266). That final rule implemented changes made in the SFSP by Pub. L. 96–499, the Omnibus Reconciliation Act of 1980, and Pub. L. 96–528, an appropriations act for Fiscal Year 1981. Public Law 96–499 limited daily meal services at sites other than camps and sites primarily serving migrant children. Pub. L. 96–528 prohibited FNS from administering the SFSP in those States which administered the SFSP in Fiscal Year 1980.

On August 13, 1981, the Omnibus Budget Reconciliation Act of 1981 was enacted as Pub. L. 97–35, making several changes in the SFSP to reduce expenditures and to improve Program management. A proposed rule implementing these and other changes was published on December 11, 1981, at 46 FR 60592–60614.

A shortened comment period of twenty days was allowed in order to aid the publication of final regulations in a timely manner. However, in response to a number of requests by the public, an extension of the comment period, to January 11, 1982, was made. A notice of this extension was published in the **Federal Register** on December 22, 1981. Thus, the public has been afforded a 31-day period to submit comments on the rulemaking. Section 13(g) of the National School Lunch Act (42 U.S.C. 1761) requires final regulations be published by January 1 of each fiscal year. Therefore, the effective date of these regulations is January 1, 1982.

The proposed rulemaking incorporated changes based on Pub. L. 97–35 and on Program experience, including suggestions for regulatory reform made by several task forces convened by the Department. The preamble to the proposed rule encouraged interested parties to submit comments regarding the rulemaking and reminded the public that comments submitted on nondiscretionary changes based on Public Law 97–35 could not substantively affect the final rulemaking.

A total of 238 comments were received from sponsors, State agencies, Food and Nutrition Service (FNS) Regional Offices, advocacy groups, local government entities, members of Congress, private citizens, and others. All comments were studied, and were summarized and catalogued according to the regulatory section to which they referred so that the comments could be systematically considered during the development of the final rule.

Comments on regulatory issues are presented by issue in the preamble. In most instances, comments which recommended changes contrary to the Program's authorizing statute or which were not accompanied with some justification or rationale are not addressed in this preamble. This preamble sets forth the basis and purpose behind significant deviations from the December 11, 1981, proposed regulations. Interested parties can assume that the reasons discussed in the preamble to the proposed rule are still valid for those provisions which are not revised in the final rule. A thorough understanding of the final rule may require reference to the preamble of the proposed rule.

In addition, a variety of comments were received on a number of provisions which remained unchanged in the proposed rule from prior regulations. The Department did not solicit comment on all areas of the regulation since the public has had ample opportunity to make comment on the various provisions in the past. Comments dealing with approved levels of meal service, meal patterns, procurement and other provisions which have remained unchanged have not influenced the development of this final rule and therefore, are not discussed in this preamble.

The Department also received a small number of technical and editorial comments from the public. Although it is not possible to list each one of the comments of this nature, some of these recommendations have been incorporated in the final rule. Technical and editorial changes which have a substantive affect on the regulation, however, are discussed in this preamble.

Statutory Changes

1. *Area Eligibility.* The proposed rule revised the definition of areas where

poor economic conditions exist to indicate that in such areas at least 50 percent of the children meet the Secretary's guidelines for free or reduced-price school meals. The 50 percent criterion applies to all sites other than camps.

The Department received 29 comments concerning this provision. Although 22 commenters disapproved of this Program modification, the Department does not have any discretion regarding the implementation of this provision. This change has been mandated by Section 809 of Pub. L. 97–35.

However, the Department has also received comments which indicate some confusion about the requirements for documenting that a site is eligible based on the geographic area criteria. There are two methods allowed in § 225.2 (areas in which poor economic conditions exist) by which a sponsor may document that a non-camp site meets the eligibility criteria for participation in the Program. First, a sponsor may document that 50 percent of the children in the area from which the site draws its attendance are eligible for free or reduced-price school meals based on information available from (1) departments of education, welfare, zoning commissions, census tracts, etc.; (2) the number of free and reduced price lunches or breakfasts served to childern attending public and nonprofit private schools located in the areas of Program sites; or (3) other appropriate sources.

The second method available to a sponsor is the collection of family size and income information from children enrolled in the Program at the site. This information must document that, at a minimum, 50 percent of the children enrolled at the site are eligible for free or reduced-price school meals. This information must be collected in cases where children are enrolled to participate in the Program at specific sites.

In order to further clarify this requirement, the language in § 225.8(a)(1)(vii) has been slightly revised to now read "(vii) the percentage of children *in the area* to be served by the site who meet the eligibility requirements for free or reduced-price school meals."

Both the proposed rule and this final rule retain the provision that allows a sponsor which proposes to serve a site which it served in the previous year to use documentation from the previous year to support the eligibility of a site. For sites of this type, applicant sponsors are only required to obtain new documentation every other year. A number of the commenters indicated some concern regarding the use of information gathered in the prior year in view of the change in eligibility from 33⅓ percent to 50 percent. This provision has been retained in order to eliminate the burden of gathering new information in cases where sponsors have submitted information in the previous year which documented that 50 percent or more of the children in the area served by the site are eligible for free or reduced-price school meals. However, the retention of this provision in no way eliminates the requirement that all sites meet the new eligibility criteria for participation. In cases where existing documentation indicates that the current criteria is not met, or there is some question as to the accuracy of the material submitted in the prior year (e.g., the number of children in the area eligible for free and reduced-price school meals has changed since the prior year), revised documentation must be resubmitted. (§ 225.8(a)(2)(ii))

2. *Sponsor Eligibility.* (a) The Department received 130 comments on the change in types of sponsors eligible to participate in the Program. The proposed rule specified that service institutions eligible to sponsor the Program include: (a) Public or nonprofit private school food authorities; (b) public or nonprofit private residential summer camps; and (c) units of local, municipal, or county government. One hundred and twenty-three (123) comments opposing the change were received. A majority of the comments reflected concern about the elimination of private, nonprofit sponsors, other than school food authorities and camps, from participation in the Program. The Department wishes to remind the commenters that it has no discretion with regard to the ineligibility of private nonprofit entities to sponsor the Program. This change in the Program is the result of legislative revisions mandated by Section 809 of Pub. L. 97–35.

(b) In accordance with Pub. L. 97–35, the proposed regulation specified that government entities eligible to sponsor the Program include units of local, municipal, and county governments. However, 52 comments were received opposing the lack of reference to "State" government entities as eligible to sponsor the SFSP.

Commenters indicated a number of reasons why they believed that units of State government should be included in the final rulemaking as eligible Program sponsors. First, commenters stated that the addition would be consistent with the intent of Congress to allow government entities to take more responsibility for the administration of the Program in their communities. Second, in a number of cases, a State government entity may have sole jurisdiction over a particular population group served by the SFSP. In this case, then, a unit of State government is essentially operating as a "local" governmental unit. Third, a majority of the comments received indicated that numerous State universities and colleges nationwide have successfully sponsored organized summer programs which have participated in the SFSP throughout its history. Commenters felt that Congress did not intend to eliminate these previously eligible government sponsors from the Program, but rather, the clear intent of the legislation was to tighten Program management through restricting the participation of private, nonprofit sponsors, such as service clubs and other organizations. Comments received from members of Congress also support this rationale for permitting State government entities to act as sponsors in the SFSP.

The Department has considered the comments submitted in support of this change and has decided to include a reference to State government entities in both the definition of "sponsor" and the definition of "units of local, municipal, or county government" included in § 225.2. In order to conform with this change, other editorial revisions have also been made in the final regulation when appropriate.

Three commenters requested clarification regarding the eligibility of Indian tribal groups as sponsors in the SFSP. The Department feels that these organizations may be considered eligible to sponsor the Program if they meet the standards set forth in the definition of "units of local, municipal, county or State government". This means that Indian organizations recognized by the State consitution, or State laws which delineate authority for government responsibility in the State, may be considered eligible to sponsor the Program as units of government. The Department wishes to point out, however, that the determination of eligibility for these types of organizations must be made on a State-by-State basis, and is in no way intended to permit private, nonprofit entities, other than schools or residential camps, to qualify as sponsors in the Program. Whenever the State agency has reason to question that an applicant is a government entity, the State agency may wish to seek the counsel of their State attorney general, or refer to the State constitution or applicable State laws. The Department wishes to emphasize that it is the applicant's

responsibility to demonstrate its eligibility, and the State may require the applicant to submit legal evidence that it is a unit of government.

(c) Section 809(2) of Pub. L. 97–35 stipulates an additional requirement for units of government acting as sponsors in the Program. Specifically, the statute mandates that these sponsors "shall be eligible for reimbursement for meals served in programs . . . only if such programs are operated directly by such governments".

The Department proposed the establishment of three criteria for the eligibility of government sponsors in the Program. As outlined in § 225.18(b)(9) and the preamble to the proposed rule, applicant government sponsors would be required to document the following in order to be approved for participation in the SFSP:

(a) That the sponsor would manage site staff, including such areas as hiring (employees or volunteers), conditions of employment and termination;

(b) That proposed sites were properties or facilities under the year-round control of the applicant; and

(c) That there was an on-going, year-round relationship between the applicant and the site which indicated direct control by the applicant.

The Department solicited public comment on this issue, particularly with regard to the requirements for establishing that government sponsors directly operate their programs. Of the 151 comments received by the Department concerning this issue, 140 of them indicated opposition to the restrictive nature of the Department's interpretation of the legislative provision.

Commenters have indicated that requiring government sponsors to demonstrate and document compliance with all three criteria will cause a hardship, not only with regard to children who may no longer be served through the Program, but to government entities which have participated in the past and wish to participate this year. Many commenters have noted that longstanding intergovernmental relationships in sponsor-site situations (i.e., city agencies sponsoring programs located at facilities run by other city, county, or State entities) would no longer be possible, and thus will eliminate the ability of these entities to participate in the SFSP. Regional Offices have indicated that, in a number of States, numerous school districts sponsored by government entities will no longer be able to participate as sites in the Program. A number of the commenters pointed out that requiring government sponsors to meet these three criteria would also have a detrimental effect on Program participation in rural areas. Commenters felt that the provision was in conflict with the Administration's stated efforts to deregulate and to provide discretion at State and local levels.

The Department is revising the final rule to respond to the above concerns. This final regulation allows government sponsors to operate Program sites as long as the sponsor accepts final financial and administrative responsibility for the SFSP. While documentation is not required, each government sponsor must certify that it will directly operate the Program at each site under its sponsorship. The final rule revises § 225.18(b)(9) to specify that direct operation means that the applicant will be responsible for: (i) Managing site staff, including such areas as hiring, conditions of employment and termination; and (ii) the management of Program operations at sites during the period of Program participation. The requirement that government sponsors manage site staff does not prohibit the staffing of sites by either paid employees or volunteers; however, site staffs must be finally accountable to the sponsor.

The proposed provision requiring that government sponsors certify, on the sponsor Program application, that they will directly operate the Program at their sites has also been retained in the final rule (§ 225.8(a)(8)).

In addition, it should be noted that current regulations require that no applicant sponsor shall be eligible to participate in the Program unless it demonstrates financial and administrative capability for Program operations, and accepts final financial and administrative responsibility for total Program operations at all sites (§ 225.18(b)(1)). Sponsors are required to submit sponsor applications and applications for each site, train all site and administrative personnel in Program requirements, provide technical assistance to sites, visit and monitor all sites, maintain records which justify all costs and meals claimed for reimbursement, maintain a financial management system, serve meals which meet Program requirements and retain responsibility for numerous other Program requirements described in § 225.18 and § 225.19 of the regulations. The Department feels that these regulatory provisions, currently in place, coupled with the new requirements discussed above, provide sufficient assurance that government entities are responsible for the operation of the Program at sites under their sponsorship, without imposing any additional economic or administrative burden on these entities.

3. *Special Milk Program.* As discussed in the preamble to the proposed rule, section 807 of Pub. L. 97–35 prohibits the simultaneous participation of sites in the SFSP and the Special Milk Program. Although four comments were received in opposition to this prohibition, the Department has no discretion regarding this change since it is based on a legislative change mandated by Congress. Two of the commenters requested clarification regarding the provision as it relates to the consecutive participation of a single site in both programs. The Department wishes to reiterate that this restriction does not prohibit an organization which sponsors the SFSP at one site from entering into a separate agreement with a State agency to operate a Special Milk Program at some other facility. Neither does this provision restrict the ability of a site to be eligible to participate in one program for one part of the operating period of the site and sign an agreement to operate the other program during a different period of operation. For example, if a camp wishes to participate in the SFSP only during the months of June through July, and the Special Milk Program only during the month of August, it may do so, provided that the program agreement periods are mutually exclusive.

Changes Recommended by Task Forces

Appeal Procedure Notification. The proposed rule deleted the provision requiring that State agencies notify sponsors or food service management companies of the procedures for requesting a review whenever the State agency takes an action which may be appealed. As discussed in the preamble to the proposed rule, States would be required to send written notification of their appeal procedures and a list of appealable actions to each potential sponsor upon application, and to each food service management company upon its application for registration. The intent of this provision was to simplify the notification requirements and reduce State agency workload. Twenty-five comments were received on this change (§ 225.15(c)).

Several commenters have pointed out that, although numerous references are made in § 225.15 to the notice of action sent by State agencies to appropriate parties, the actual provision which required State agencies to inform the affected parties of the State's action was omitted in the proposed rule. This provision was inadvertently deleted from the proposed rule and has been

reinserted in this final rule. Section 225.15(b)(1) now requires that sponsors or food service management companies be advised in writing of the grounds upon which the State agency based its adverse action. The provision also requires that the notice of action be sent by certified mail, return receipt requested, and include a statement indicating that the affected party has the right to appeal the State's action.

The Department believes that the reinsertion of the language of § 225.15(b)(1) will sufficiently address the concerns of the commenters about this issue. The Department believes that simplifying the appeals procedure notification requirements for State agencies will not abridge the appeal rights available to participants in the event that a sponsor or food service management company wishes to appeal the action of a State agency.

Other Task Force recommendations included in the proposed rule regarding Management and Administration Plans, Management Evaluations, the termination of sponsors for serious deficiencies, and meals prepared by schools have been adopted in this final rule.

Other Program Changes

1. *National Deadline Date.* The proposed rule established a national deadline date by which written Program applications must be submitted by applicant sponsors to the administering agency. The proposed rule established a deadline date of June 15. Administering agencies were allowed to establish an earlier deadline at their discretion. Twenty-eight (28) comments were received with regard to this provision, 17 in favor and 10 opposed. One commenter felt that clarification needed to be made regarding the deletion of the provision, included in prior year's regulations, that allowed State agencies to approve applications submitted after the deadline date in cases where failure to do so would deny the Program to an area where poor economic conditions exist.

The Department wishes to clarify that the June 15 deadline is the final date by which written applications may be submitted by prospective sponsors. It is felt that the establishment of a final deadline date will aid both State agencies and sponsors in the efficient and effective administraton of the Program. This provision is included in § 225.7(b).

(2) *Civil Rights Requirements.* Sections 225.3(c) and 225.9(h) have been slightly revised in the final rule to include references to the nondiscrimination requirements of Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973. These changes have been made to ensure that the Department is meeting all legislative requirements regarding Civil Rights in the SFSP. The addition of these references also revises the Civil Rights nondiscrimination statement by including sex and handicap. Conforming changes have been made in various sections of this final rule to assure that no person shall, on the grounds of race, color, national origin, sex or handicap, be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under the Program. However, reference has not been included in § 225.9(h) to collect data based on sex and handicap since the Department has not yet placed this reporting requirement on State agencies. The Department will provide additional guidance on these requirements to administering agencies in the near future.

3. *Audits.* In the past, Program regulations have specified that sponsors expecting to receive $75,000 or more in Program payments were required to have an audit conducted each year. States were required to provide every other year for audits of all other sponsors. All audits were to specifically examine the sponsor's SFSP. States were allowed to waive audits of: (a) Sponsors earning less than $10,000 in Program payments; (b) sponsors receiving other Federal funds and subject to an organization-wide audit in accordance with OMB Circular A–102; and (c) sponsors which the State agency determines do not need an audit.

Comments from the Office of Inspector General (OIG) have led to revision of the SFSP audit requirements. This final regulation, therefore, specifies that audits of funds received under the Program should be conducted in accordance with 7 CFR Part 3015, the Departments' Uniform Federal Assistance Regulations and OMB Circulars A–102 and A–110, as applicable. Corresponding editorial changes have been made throughout this final rule in order to be consistent with this change in the audit requirements. The Department wishes to point out that the approval of State Management and Administration Plans will not be delayed due to changes necessary in Plan provisions drafted in compliance with § 225.12 of the proposed rule. However, compliance with the new audit requirements will be necessary.

Accordingly, 7 CFR Part 225 is revised and reissued as follows:

PART 225—SUMMER FOOD SERVICE PROGRAM

Subpart A—General

Sec.
225.1 General purpose and scope.
225.2 Definitions.
225.3 Administration.

Subpart B—Assistance to States

225.4 Payments to State agencies and use of Program funds.
225.5 Commodity assistance.

Subpart C—State Agency Provisions

225.6 Program management and administration plan.
225.7 State agency responsibilities.
225.8 Program applications.
225.9 Program monitoring and assistance.
225.10 Records and reports.
225.11 Program payments.
225.12 Audit and management evaluation.
225.13 Corrective action procedures.
225.14 Claims against sponsors.
225.15 Appeal procedures.
225.16 Procedures for food service management companies.
225.17 Procurement standards.

Subpart D—Provisions for Sponsors

225.18 Requirements for sponsor participation.
225.19 Operational responsibilities of sponsors.
225.20 Meal service requirements.
225.21 Free meal policy.

Subpart E—Miscellaneous Provisions

225.22 Other provisions.
225.23 Program information.

Authority: Secs. 803, 807, 809, 816 and 817, Pub. L. 97–35, secs. 203 and 206, Pub. L. 96–499, secs. 5, 7, 10, Pub. L. 95–627, 95 Stat. 3603 (42 U.S.C. 1771); sec. 2, Pub. L. 95–166, 91 Stat. 1325 (42 U.S.C. 1961); sec. 7, Pub. L. 91–248, 84 Stat. 211 (42 U.S.C. 1859a).

Subpart A—General

§ 225.1 General purpose and scope.

This part announces the policies and prescribes the regulations under which the Secretary will carry out a Summer Food Service Program to assist States through grants-in-aid to conduct nonprofit food service programs for children during the summer months and at other approved times. The primary purpose of the Program is to provide food service to children from needy areas during periods when area schools are closed for vacation.

§ 225.2 Definitions.

"Act" means the National School Lunch Act, as amended.

"Administrative costs" means costs incurred by a sponsor related to planning, organizing, and managing a food service under the Program, and excluding interest costs and operating costs.

"Advance payments" means financial assistance made available to a sponsor for its operating costs and/or administrative costs prior to the end of the month in which such costs will be incurred.

"Areas in which poor economic conditions exist" means (1) the local areas from which a site draws its attendance in which at least 50 percent of the children are eligible for free or reduced price school meals under the National School Lunch Program and the School Breakfast Program, as determined (i) by information provided from departments of welfare, education, zoning commissions, census tracts, and organizations determined by the State agency to be migrant organizations, (ii) by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the areas of Program sites, or (iii) from other appropriate sources, or (2) an enrollment program in which at least 50 percent of the children at the site are eligible for free or reduced price school meals as determined by statements of eligibility based on the sizes and incomes of the families of the children enrolled.

"Camps" means residential summer camps and nonresidential day camps which offer a regularly scheduled food service as part of an organized program for enrolled children. Non residential camp sites shall offer a continuous schedule of organized cultural or recreational programs for enrolled children between meal services.

"Children" means (1) persons 18 years of age and under, and (2) persons over 18 years of age who are determined by a State educational agency or a local public educational agency of a State to be mentally or physically handicapped and who participate in a public or nonprofit private school program established for the mentally or physically handicapped.

"Costs of obtaining food" means costs related to obtaining food for consumption by children. Such costs may include, in addition to the purchase price of agricultural commodities and other food, the cost of processing, distributing, transporting, storing, or handling any food purchased for, or donated to, the Program.

"Continuous school calendar" means a situation in which all or part of the student body of a school are (1) on a vacation for periods of 15 continuous school days or more during the period October through April and (2) in attendance at regularly scheduled classes during most of the period May through September.

"Department" means the U.S. Department of Agriculture.

"Fiscal year" means the period beginning October 1 of any calendar year and ending September 30 of the following calendar year.

"FNS" means the Food and Nutrition Service of the Department.

"FNSRO" means the appropriate FNS Regional Office.

"Food service management company" means any commercial enterprise or nonprofit organization which contracts with a sponsor to manage any aspect of the food service program. Food service management companies may be (1) public agencies or entities; (2) private, nonprofit organizations; or (3) private, for-profit companies.

"Income accruing to the program" means all funds used by a sponsor in its food service program, including but not limited to all monies, other than program payments, received from Federal, State and local governments, from food sales to adults, and from any other source, including cash donations or grants. Income accruing to the Program will be deducted from combined operating and administrative costs.

"Meals" means food which is served to children at a food service site and which meets the nutritional requirements set out in this part.

"Milk" means whole milk, lowfat milk, skim milk, and buttermilk. All milk must be fluid and pasteurized and must meet State and local standards for the appropriate type of milk. Milk served may be flavored or unflavored. In Alaska, Hawaii, American Samoa, Guam, Puerto Rico, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands of the United States, if a sufficient supply of such types of fluid milk cannot be obtained, reconstituted or recombined milk may be used. All milk should contain Vitamins A and D at the levels specified by the Food and Drug Administration and at levels consistent with State and local standards for such milk.

"Needy children" means children from families whose incomes are equal to or below the Secretary's Guidelines for Determining Eligibility for Reduced Price School Meals.

"OIG" means the Office of the Inspector General of the Department.

"Operating costs" means the cost of operating a food service under the Program, (1) including (i) cost of obtaining food, (ii) labor directly involved in the preparation and service of food, (iii) cost of nonfood supplies, (iv) rental and use allowances for equipment and space, and (v) costs for transporting children in rural areas to feeding sites in rural areas, but (2) excluding (i) the cost of the purchase of land, acquisition or construction of buildings, (ii) alteration of existing buildings, (iii) interest costs, (iv) the value of in-kind donations, and (v) administrative costs.

"Private nonprofit" means tax exempt under the Internal Revenue Code of 1954, as amended.

"Program" means the Summer Food Service Program for Children authorized by Section 13 of the Act.

"Program funds" means Federal financial assistance made available to State agencies for the purpose of making Program payments.

"Program payments" means financial assistance in the form of start-up payments, advance payments or reimbursement paid to sponsors for operating and administrative costs.

"Rural" means (1) any area in a county which is not a part of a Standard Metropolitan Statistical Area or (2) any "pocket" within a Standard Metropolitan Statistical Area which, at the option of the State agency and with FNSRO concurrence, is determined to be geographically isolated from urban areas.

"School Food Authority" means the governing body which is responsible for the administration of one or more schools and which has the legal authority to operate a lunch program in those schools.

"Secretary" means the Secretary of Agriculture.

"Self-preparation" means the sponsor prepares the meals which will be served at its site(s), and does not contract with a food service management company for the preparation of all or a portion of the meals.

"Session" means a specified period of time during which an enrolled group of children attend camp.

"Site" means a physical location at which a sponsor provides a food service for children and at which children consume meals in a supervised setting.

"Special account" means an account between a sponsor and a food service management company with a State or Federally insured bank in which checks from the State agency for operating costs are deposited by the sponsor and released only in accordance with the terms of the special account agreement.

"Sponsor" means a public or private nonprofit school food authority; public or private nonprofit residential summer camp; or unit of local, municipal, county or State government, which develops a special summer or other school vacation program providing food service similar to that available to children during the

school year under the National School Lunch and School Breakfast Programs and which is approved to participate in the Program. (Sponsors are referred to in the Act as "service institutions").

"Start-up payments" means financial assistance made available to a sponsor for administrative costs to enable it to effectively plan a summer food service, and to establish effective management procedures for such a service. These payments shall be deducted from subsequent administrative costs payments.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

"State agency" means the State educational agency or an alternate State agency that has been designated by the Governor or other appropriate executive or legislative authority of the State and which has been approved by the Department to administer the Program within the State, or in States where FNS administers the Program, FNSRO.

"Unit of local, municipal, county or State government" means an entity which is so recognized by the State constitution or State laws, such as the State administrative procedures act, tax laws, or other applicable State laws which delineate authority for government responsibility in the State.

§ 225.3 Administration.

(a) FNS shall act on behalf of the Department in the administration of the Program.

(b) Within the States, responsibility for the administration of the Program shall be in the State agency, except that if FNSRO has continuously administered the Program in any State since October 1, 1980, FNS shall continue to administer the Program in that State, unless a State educational agency is not permitted by law to disburse funds to any of the nonpublic schools in the State, in which case the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency. A State in which FNS administers the Program may upon request to FNS, assume administration of the Program. Each State agency shall notify the Department by November 1 of the fiscal year involved as to whether or not it intends to administer the Program.

(c) Each State agency desiring to take part in the Program shall enter into a written agreement with FNS for the administration of the Program in the State in accordance with the provisions of this part. The agreement shall cover the operation of the Program during the period specified therein and may be extended by written consent of both parties. The agreement shall contain an assurance that the State agency will comply with the Department's nondiscrimination regulations (7 CFR Part 15), issued under Title VI of the Civil Rights Act of 1964, and any Instructions issued by FNS pursuant to those regulations, Title IX of the Education Amendments of 1972, and section 504 of the Rehabilitation Act of 1973.

(d) In States in which FNSRO administers the Program, it shall have all of the responsibilities of a State agency and shall earn State administrative and Program funds as set forth in this part.

Subpart B—Assistance to States

§ 225.4 Payments to State agencies and use of Program funds.

(a) *Letter of Credit for Program payments.* (1) Not later than April 15 of each fiscal year, FNS shall make available to each participating State in a Letter of Credit an amount equal to 65 percent of the preceding fiscal year's Program payments for operating costs plus 65 percent of the preceding fiscal year's Program payments for administrative costs in the State. This amount may be adjusted to reflect changes in reimbursement rates made pursuant to § 225.11(c)(11). However, the State shall not withdraw funds from this Letter of Credit until its Program management and administration plan is approved by FNS. (2) Not later than May 15, FNS shall make available, if necessary, additional funds in a Letter of Credit to ensure that at least 65 percent of the Program operating and administrative funds estimated to be needed for the summer in the State's approved management and administration plan has been provided to each State. (3) Not later than July 1, FNS shall make available, if necessary, in a Letter of Credit an amount sufficient to ensure that at least 65 percent of the Program operating and administrative funds determined during the evaluation required in § 225.12(c) to be needed for the summer has been provided to the State. Funds made available in these Letters of Credit shall be used by the State agency to make program payments to sponsors. FNS may make appropriate changes in the amounts included in these Letters of Credit based on any information available upon which determinations of actual Program size may be made.

(b) *Continuous school calendar.* The Letter of Credit shall include sufficient funds to enable the State agency to make advance payments to sponsor serving areas in which schools operate under a continuous school calendar. These funds shall be made available no later than the first day of the month prior to the month during which the food service will be conducted.

(c) *Remaining funds.* FNS shall make available any remaining Program funds due within 45 days of the receipt of valid Claims for Reimbursement from sponsors by the State agency. However, no payment shall be made for claims submitted for any fiscal year if they are submitted after December 31 of the following fiscal year, except as allowed under § 225.11(c)(6).

(d) *Return of funds.* Each State agency shall release to FNS any Program funds which it determines are unobligated as of September 30 of each fiscal year. Release of funds by the State agency shall be made as soon as practicable, but in no event later than 30 calendar days following demand by FNS, and shall be accomplished by an adjustment in the State agency's Letter of Credit.

(e) *State administrative funds.* For each fiscal year, FNS shall pay to each State agency for administrative expenses incurred in the Program an amount equal to (1) 20 percent of the first $50,000 in Program funds properly payable to the State in the preceding fiscal year; (2) 10 percent of the next $100,000 in Program funds properly payable to the State in the preceding fiscal year; (3) 5 percent of the next $250,000 in Program funds properly payable to the State in the preceding fiscal year; and (4) 2½ percent of any remaining Program funds properly payable to the State in the preceding fiscal year: Provided, however, That FNS may make appropriate adjustments in the level of State administrative funds to reflect changes in Program size from the preceding fiscal year as evidenced by information submitted in the State Program management and administration plan and any other information available to FNS.

(f) *Use of State administrative funds.* State administrative funds paid to any State shall be used by State agencies to employ personnel, including travel and related expenses, and to supervise and give technical assistance to sponsors in their initiation, expansion, and conduct of any food service for which Program funds are made available. State agencies may also use administrative funds for such other administrative

expenses as are set forth in their approved Program management and administration plan.

(g) *State administrative funds Letter of Credit.* (1) At the beginning of each fiscal year, FNS shall make available to each participating State agency by Letter of Credit an initial allocation of State administrative funds for use in that fiscal year. This allocation shall not exceed one-third of the administrative funds provided to the State in the preceding fiscal year. For State agencies which did not receive any Program funds during the preceding fiscal year, the amount to be made available shall be determined by FNS.

(2) Additional State administrative funds shall be made available upon the receipt and approval by FNS of the State's Program management and administration plan. The amount of such funds, plus the initial allocation, shall not exceed 80 percent of the State administrative funds determined by the formula set forth in paragraph (e) of this section and based on the estimates set forth in the approved Program management and administration plan.

(3) The remaining State administrative funds shall be paid to each State agency as soon as practicable after the conduct of the funding assessment described in § 225.12(c) (but not later than September 1) and shall be in an amount equal to that determined to be needed during the funding evaluation, less the amounts paid under paragraphs (g) (1) and (2) of this section.

(h) *Funding assurance.* At the time FNS approves the State's management and administration plan, the State shall be assured of receiving State administrative funding equal to the lesser of the following amounts: 80 percent of the amount obtained by applying the formula set forth in paragraph (e) of this section to the total amount of Program payments made within the State during the prior fiscal year, or, 80 percent of the amount obtained by applying the formula to the amount of Program funds estimated to be needed in the management and administration plan. The State agency shall be assured that it will receive no less than this level unless FNS determines that the State agency has failed or is failing to meet its responsibilities under this part.

(i) *Limitation.* In no event may the total payment for State administrative costs in any fiscal year exceed the total amount of expenditures incurred by the State agency in administering the Program.

(j) *Adjustment of Letter of Credit.* Prior to May 15 of each fiscal year, FNS shall make any adjustments necessary in each State's Letter of Credit to reflect actual expenditures in the preceding fiscal year's Program.

(k) *Health inspection funds.* Each fiscal year, FNS shall make available by Letter of Credit to each State agency an amount equal to one percent of Program funds expended in the preceding fiscal year in the State. Following approval of the State's management and administration plan, FNS shall make available in a Letter of Credit any additional funds necessary to ensure that 1 percent of Program funds estimated to be needed for Program payments in the State's management and administration plan is available to the State. These funds shall be used solely to enable State or Local health departments or other governmental agencies charged with health inspection functions to carry out health inspections and meal quality tests, provided that if these agencies cannot perform such inspections or tests, the State agency may use the funds to contract with an independent agency to conduct the inspection or meal quality tests. An adjustment may be made in the amount provided for in this paragraph based on the evaluation required in § 225.12(c), if such an adjustment is warranted. Funds so provided but not expended or obligated shall be returned to the Department by September 30 of the same fiscal year.

§ 225.5 Commodity assistance.

(a) Sponsors eligible to receive commodities under the Program include only those which prepare the meals to be served at their sites and those which have entered into an agreement with a school or school district for the preparation of meals. The State agency shall make available to these sponsors information on available commodities.

(b) Not later than June 1 of each year State agencies shall prepare a list of the names of sponsors which are eligible to receive commodities. The list shall indicate the average daily number of eligible meals to be served by each of these sponsors. If the State agency does not handle the distribution of commodities donated by the Department, this list shall be forwarded to the agency of the State responsible for the distribution of commodities. The State agency shall be responsible for promptly revising the information included on the list to reflect additions or terminations of sponsors and for adjusting the average daily participation data as it determines necessary.

Subpart C—State Agency Provisions

§ 225.6 Program management and administration plan.

(a) Not later than February 15 of each year, except that for fiscal year 1982 no later than March 15, each State Agency shall submit to FNSRO a Program management and administration plan for that fiscal year.

(b) Each plan shall be acted on or approved by March 15, or if it is submitted late, within 30 calendar days of receipt of the plan. If the plan initially submitted is not approved, the State agency and FNS shall work together to ensure that changes to the plan, in the form of amendments, are submitted so that the plan can be approved within 60 calendar days following the initial submission of the plan. Upon approval of the plan, the State agency shall be notified of the level of State administrative funding which it is assured of receiving under § 225.4(h).

(c) Prior to submission, the State shall ensure that interested parties have an opportunity to make comments and recommendations and that timely comments and recommendations have been given full consideration in the development of the Plan.

(d) The Plan shall have the original signature of the Chief Official (Commissioner or Superintendent) of the State agency.

(e) The State agency shall give the Governor, or his delegated agent, the opportunity to comment on the management and administration plan. A period of 45 calendar days from the date of receipt of the Plan shall be afforded to make such comments.

(f) Approval of the Plan by FNS shall be a prerequisite to the withdrawal of Program funds by the State from the Letter of Credit and to the donation by the Department of any commodities for use in the State's Program.

(g) The Plan shall include, at a minimum, the following information:

(1) The State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary for the use of these funds;

(2) The State's plans for use of Program funds and funds from within the State to the maximum extent practicable to reach needy children, including the State's methods for assessing need, and its plans and schedule for informing service institutions of the availability of the Program;

(3) The State's best estimate of the number and character of service institutions and sites to be approved,

and of meals to be served and children to participate for the fiscal year, and a description of the estimating methods used;

(4) The State's plans and schedule for providing technical assistance and training to eligible service institutions;

(5) The State's schedule for application by service institutions;

(6) The actions to be taken to maximize the use of meals prepared by service institutions and the use of school food service facilities;

(7) The State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently;

(8) The State's plan and schedule for registering food service management companies;

(9) The State's plan for timely and effective action against Program violators;

(10) The State's plan for determining the amounts of Program payments to service institutions and for disbursing such payments;

(11) The State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary; and

(12) The State's procedure for granting a hearing and prompt determination to any service institutions wishing to appeal a State ruling, as specified in § 225.15.

§ 225.7 State agency responsibilities.

(a) The State agency shall provide sufficient qualified consultative, technical, and managerial personnel to administer the Program, monitor performance, and measure progress in achieving Program goals. The State agency shall assign Program responsibilities to personnel to ensure that all applicable requirements under this part are met.

(b) Each State agency shall inform all of the previous year's sponsors which meet current eligibility requirements and all potential sponsors of the deadline date for submitting a written application for participation in the Program. The State agency shall require that all applicant sponsors submit written applications for Program participation to the State agency by June 15. However, the State agency may establish an earlier deadline date for Program application submission.

(c) Within 30 days of receiving a complete and correct application, the State agency shall notify the applicant of its approval or disapproval. If an incomplete application is received, the State agency shall so notify the applicant within 15 days and shall provide technical assistance for the purpose of completing the application. Any disapproved applicant shall be notified of its right to appeal under § 225.15.

(d) The State agency shall determine the eligibility of applicant sponsors (and their sites) applying for participation in the Program in accordance with the applicant sponsor and site eligibility criteria outlined in § 225.18.

(e) The State agency shall review each applicant's administrative budget as a part of the application approval process, in order to assess the applicant's ability to operate in compliance with these regulations within its projected reimbursement. In approving the applicant's administrative budget, the State agency shall take into consideration the number of sites and children to be served, as well as any other relevant factors. A sponsor's administrative budget shall be subject to review for adjustments by the State agency if the sponsor's level of site participation or the number of meals served to children changes significantly.

(f) State agencies may approve the application of an otherwise eligible applicant which does not provide a year-round service to the community which it proposes to serve under the Program only if it meets one or more of the following criteria: (1) It is a residential camp, or (2) it proposes to provide a food service for the children of migrant workers, or (3) a failure to do so would deny the Program to an area in which poor economic conditions exist, or (4) a significant number of needy children will not otherwise have reasonable access to the Program.

(g) Applicants which qualify as camps shall be approved for reimbursement only for meals served free to enrolled children who meet the eligibility requirements for free and reduced price school meals.

(h) The State agency shall use the following order of priority in approving applicants to operate sites which propose to serve the same area or the same enrolled children:

(1) Applicants which are public or nonprofit private school food authorities and other applicants which have demonstrated successful Program performance in a prior year;

(2) Applicants which propose to prepare meals at their own facilities or which operate only one site;

(3) Applicants which propose to utilize local school food service facilities for the preparation of meals;

(4) Other applicants which have demonstrated ability for successful Program operations; and

(5) Applicants which plan to integrate the Program with Federal, State, or local employment or training programs.

(i) When evaluating a proposed food service site, the State agency shall ensure that:

(1) If not a camp, the proposed site serves an area in which poor economic conditions exist, as defined by § 225.2;

(2) The area which the site proposes to serve is not or will not be served in whole or in part by another site, unless it can be demonstrated to the satisfaction of the State agency that each site will serve children not served by any other site in the same area for the same meal; and

(3) The site is approved to serve no more than the number of children for which its facilities are adequate.

(j) When approving an application, the State agency shall establish for each meal service an approved level for the maximum number of meals which may be served under the Program for each site which will serve meals prepared by a food service management company. These approved levels shall be established in accordance with the following provisions:

(1) The initial maximum approved level shall be based upon the historical record of attendance at the site if such a record has been established in prior years and the State agency determines that it is accurate. The State agency shall develop a procedure for establishing initial maximum approved levels for sites when no accurate record from prior years is available.

(2) The maximum approved level shall be adjusted, if warranted, based upon information collected during site reviews. If attendance at the site on the day of the review is significantly below the site's approved level, the State agency should consider making a downward adjustment in the approved level with the objective of providing only one meal per child.

(3) The sponsor may seek an upward adjustment in the approved level for its sites by requesting a site review or by providing the State agency with evidence that attendance exceeds the sites' approved levels.

(4) Whenever the State agency establishes or adjusts approved levels of meal service for a site, it shall document the action in its files, and it shall provide the sponsor with immediate written confirmation of the approved level.

(5) Upon approval of its application or any adjustment of maximum approved

levels, the sponsor shall inform the food service management company with which the sponsor contracts of the approved level for each meal service at each site for which the food service management company will provide meals. This notification of any adjustments in approved levels shall take place within the time frames set forth in the contract for adjusting meal orders. Whenever the sponsor notifies the food service management company of the approved levels or any adjustments to these levels for any of its sites, the sponsor shall clearly inform the food service management company that an approved level of meal service represents the maximum number of meals which may be served at a site and is not a standing level for meal orders at that site. The sponsor shall adjust meal orders with the objective of serving only one meal per child, as required under § 225.19(d), when the number of children attending is below the site's approved level.

(k) Each State agency shall inform potential sponsors of the procedure for applying for advance operating and administrative costs payments as provided for in § 225.11(b), and where applicable, each State agency shall inform sponsors of the procedure for applying for start-up payments provided for in § 225.11(a).

(l) The State agency shall not approve any applicant sponsor to operate more than 200 sites or to serve an average daily attendance of more than 50,000 children unless it can demonstrate to the satisfaction of the State agency that it has the capability of managing a program of that size.

(m) The State agency shall not approve the application of any applicant sponsor identifiable through its organization or principals as a sponsor which has been determined to be seriously deficient in its Program operations. The official making the determination of denial must notify the applicant sponsor in writing stating all of the grounds on which the State agency based the denial. Serious deficiencies which are grounds for nonapproval are described in § 225.13(c).

(n) Pending the outcome of a review of a denial the State agency shall proceed to approve other applicants in accordance with its responsibilities under paragraph (h) of this section, without regard to the application under review.

(o) The State agency shall not approve the application of any applicant sponsor which submits fraudulent information or documentation when applying for Program participation or knowingly withholds information which may lead to the disapproval of its application. Complete information regarding such disapproval of an applicant shall be submitted by the State agency through FNSRO to OIG.

§ 225.8 Program applications.

(a) The applicant shall submit a written application to the State agency for participation in the Program as a sponsor. The State agency may use the application form developed by FNS or it may develop an application form for use in the Program. Application shall be made on a timely basis in accordance with the deadline date established under § 225.7(b). At a minimum, the application shall include the items listed below:

(1) A site information sheet, as developed by the State agency, for each site where a food service operation is proposed. The site information sheet shall demonstrate or describe the following:

(i) An organized and supervised system for serving meals to attending children;

(ii) The estimated number and types of meals to be served and the times of service;

(iii) Arrangements, within standards prescribed by the State or local health authorities, for delivery and holding of meals until time of service, and arrangements for storing and refrigerating any leftover meals until the next day;

(iv) Arrangements for food service during periods of inclement weather;

(v) Access to a means of communication for making necessary adjustments in the number of meals delivered in accordance with the number of children attending daily at each site;

(vi) The geographic area to be served by the site;

(vii) The percentage of children in the area to be served by the site who meet the eligibility requirements for free or reduced price school meals; and

(viii) Whether the site is rural, as defined in § 225.2, or non-rural, and whether the site's food service will be self-prepared or vended.

(2) Along with its site information sheet for a site that is not a camp, documentation supporting the eligibility of each site as serving an area in which poor economic conditions exist.

(i) For those sites at which applicants will serve children of migrant workers, the documentation requirement may be met by providing the State agency with data from an organization determined by the State agency to be a migrant organization, which supports eligibility for those children as a group, and

(ii) When a sponsor proposes to serve a site which it served in the previous year, documentation from the previous year may be used to support the eligibility of the site. For such sites applicants shall only be required to obtain new documentation every other year.

(3) Prior to filing their Claims for Reimbursement for each session or at such time as specified by the State agency, camps shall submit to the State agency family size and income information which documents the number of children enrolled in each session who meet the eligibility requirements for free or reduced price school meals.

(4) Information in sufficient detail to enable the State agency to determine whether the applicant meets the criteria for participation in the Program as set forth in § 225.18, and the extent of Program payments needed, including a request for advance payments and start-up payments, if applicable, an administrative and operating budget, and a staffing and monitoring plan.

(5) A complete administrative budget for State agency review and approval. The budget shall contain the projected administrative expenses which a sponsor expects to incur during the operation of the Program, and shall include information in sufficient detail to enable the State agency to assess the sponsor's ability to operate under the Program within its estimated reimbursement. A sponsor's approved administrative budget shall be subject to subsequent review by the State agency for adjustments in projected administrative costs.

(6) A plan for and a synopsis of its invitation to bid for food service, if a bid is required under § 225.16.

(7) A free meal policy statement, as required in § 225.21.

(8) For each applicant which seeks approval under § 225.18(a)(3) (as a unit of local, municipal, county or State government), certification that it will directly operate the Program in accordance with § 225.18(b)(9).

(b) Sponsors approved for participation in the Program shall enter into written agreements with the State agency. The agreements shall provide that the sponsor shall:

(1) Operate a nonprofit food service during any period from May through September for children on school vacation under a continuous school calendar system;

(2) Serve meals which meet the requirements and provisions set forth in

§ 225.20 during period designated as the meal service period by the sponsor, and serve the same meals to all children;

(3) Serve meals without cost to all children, except that camps may charge for meals served to children who are served meals under the Program;

(4) Issue a policy statement in accordance with § 225.21;

(5) Meet the training requirement for its administrative and site personnel, as required under § 225.19(i).

(6) Claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children at approved sites during the approved meal service period, except that camps shall claim reimbursement only for the type or types of meals specified in the agreement and served without charge to children who are eligible for free or reduced price school meals. The agreement shall specify the approved levels of meal service for the sponsor's sites for which approved levels have been established as required under § 225.7(j); no permanent changes may be made in the serving time of any meal unless the changes are approved by the State agency.

(7) Submit claims for reimbursement in accordance with procedures established by the State agency, and those States in § 225.11;

(8) In the storage, preparation and service of food, maintain proper sanitation and health standards in conformance will all applicable State and local laws and regulations;

(9) Accept and use, in quantities that may be efficiently utilized in the Program, such foods as may be offered as a donation by the Department;

(10) Have access to facilities necessary for storing, preparing, and serving food;

(11) Maintain a financial management system as prescribed by the State agency;

(12) Maintain on file documentation of site visits and reviews in accordance with § 225.19 (g) and (h);

(13) Upon request, make all accounts and records pertaining to the Program available to State, Federal, or other authorized officials for audit or administrative review, at a reasonable time and place. These records shall be retained for a period of 3 years after the end of the fiscal year to which they pertain, unless audit or investigation findings have not been resolved, in which case the records shall be retained until all issues raised by the audit or investigation have been resolved;

(14) Maintain children on site while meals are consumed; and

(15) Retain final financial and administrative responsibility for its program.

(c) Each State agency shall require applicant sponsors submitting Program application site information sheets, Program agreements or a request for advance payments, and sponsors submitting claims for reimbursement, to certify that the information submitted on these forms is true and correct and that the sponsor is aware that deliberate misrepresentation or withholding of information may result in prosecution under applicable State and Federal statutes.

(d) Within two weeks of receiving notification of their approval, but in any case prior to commencement of operation under the Program, sponsors shall submit to the State agency a copy of their letter advising the appropriate health department of their intention to provide a food service during a specific period at specific sites.

(e) In addition, the State agency may require any sponsor which contracts with a food service management company to enter into an agreement with the State agency to provide that the sponsor shall establish a special account with a State agency or Federally insured bank for operating costs payable to the sponsor by the State. The special account agreement shall specify that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company. The special account agreement may contain such other terms, agreed to by both the sponsor and the food service management company, which are consistent with the terms of the contract between the sponsor and the food service management company. A copy of the special account agreement shall be submitted to the State agency and another copy maintained on file by the sponsor. Any charges made by the bank for the account described in this section shall be considered an allowable sponsor administrative cost.

§ 225.9 Program monitoring and assistance.

(a) *Program availability.* By February 1 of each fiscal year, each State agency shall announce the purpose, eligibility criteria, and availability of the Program throughout the State, through appropriate means of communication. As part of this effort, each State agency shall compile a listing of potential sponors which have not previously participated in the Program and shall contact them. State agencies shall identify rural areas, Indian tribal territories, and areas with a concentration of migrant farmworkers which qualify for the Program and shall actively seek eligible applicant sponsors to serve such areas. States shall identify priority outreach areas in accordance with FNS guidance and target outreach efforts in these areas. The State agency shall encourage potential sponsors to use their own facilities or the facilities of public or nonprofit private schools for the preparation, delivery, and service of meals under the Program.

(b) *Training.* Each State agency shall plan for and carry out Program training for sponsors, food service management company representatives, auditors, and health inspectors which will participate in the Program in that State. Prior to Program operations, each State agency shall ensure that the sponsor's supervisory personnel responsible for the food service receive training in all necessary areas of Program administration and operations. This training shall be structured and scheduled to reflect the fact that individual sponsors or groups of sponsors require different levels and areas of Program training. State agencies are encouraged to utilize sponsors which have previously participated in the Program in such training, and in the training of site personnel regarding their responsibilities. Training should be made available at convenient locations. Prior to the beginning of Program operations, each State agency shall make available training in all necessary areas of Program administration for representatives from each food service management company and each health department which will participate in the Program in the current year.

(c) *Program materials.* Each State agency shall develop and make available all necessary Program materials in sufficient time to enable applicant sponsors to prepare adequately for their participation in the Program.

(d) *Food specifications and meal quality standards.* With the assistance of the Department, each State agency shall develop and make available to all sponsors minimum food specifications and model meal quality standards which shall become part of the contracts between sponsors and food service management companies.

(e) *Program monitoring and assistance.* The State agency shall conduct Program monitoring and provide Program assistance according to the following provisions:

(1) *Pre-approval visits.* The State agency shall conduct pre-approval visits of sponsors and sites, as specified

below, to assess the applicant sponsor's or site's potential for successful Program operations and verify information provided in the application. The State agency shall visit prior to approval:

(i) All applicant sponsors which did not participate in the Program in the prior year;

(ii) All applicant sponsors which, as a result of operational problems noted in the prior year, the State agency has determined need a pre-approval visit;

(iii) All proposed nonschool sites with an expected average daily attendance of 300 children or more which did not participate in the Program in the prior year.

(2) *Sponsor and site reviews.* The State agency shall review sponsors and sites to ensure compliance with Program regulations, the Department's nondiscrimination regulations (7 CFR Part 15) and any other applicable instructions issued by the Department. In determining which sponsors or sites to review under this paragraph, the State agency shall, at a minimum, consider whether the sponsor participated or whether the site was used or reviewed in prior years, the performance of the sponsor or site in prior years, the performance of other sites operated by the same sponsor in prior years and the current year, and the performance of the applicable sponsor in prior years and the current year. Reviews shall be conducted as follows:

(i) For the following types of sponsors, State agencies shall conduct both a review of sponsor operations and review an average of 15 percent of their sites during the first four weeks of the sponsor's operations:

(A) Sponsors which have 10 or more sites and which did not operate the Program in the prior year, and

(B) Other sponsors of 10 or more sites which are determined by the State agency to need early reviews.

(ii) The State agency shall review the following types of sponsors and sites not reviewed under subparagraph (2)(i) of this paragraph at least once during the period of Program operations:

(A) All remaining sponsors of 10 or more sites and an average of at least 15 percent of their sites, and

(B) 70 percent of all sponsors of fewer than 10 sites and an average of 10 percent of their sites.

(3) *Follow-up reviews.* The State agency shall conduct follow-up reviews of sponsors and sites as necessary.

(4) *Monitoring system.* Each State agency shall develop and implement a monitoring system to ensure that sponsors, including site personnel, and the appropriate food service management company, if applicable, immediately receive a copy of any review reports which indicate Program violations and which could result in a Program disallowance.

(5) *Records.* Documentation of Program assistance and results of such assistance shall be maintained on file by the State agency.

(6) *Food preparation facility visits.* As a part of the review of any sponsor which contracts with a food service management company for the preparation of meals, the State agency shall inspect the facilities of the food service management company. Each State agency shall establish an order of priority for visiting facilities at which food is prepared to be served in the Program. The State agency shall respond promptly to complaints concerning facilities with potential problems. Funds provided for in § 225.4(k) may be used for this purpose.

(7) *Forms for reviews by sponsors.* Each State agency shall develop and provide monitor review forms to all approved sponsors. These forms shall be completed by sponsor monitors. The monitor review form shall include, but not be limited to, time of reviewer's arrival and departure, site supervisor's signature, certification statement to be signed by monitor, the number of meals prepared or delivered, the number of meals served to children, the deficiencies noted, and corrective actions taken by sponsor and date of such actions.

(8) *Statistical monitoring.* State agencies may use statistical monitoring procedures in lieu of the site monitoring requirements prescribed in paragraph (e)(2) of this section to accomplish the monitoring and technical assistance aspects of the Program. State agencies which use statistical monitoring procedures may use the findings in evaluating claims for reimbursement. Statistical monitoring may be used for some or all of a State's sponsors. Use of statistical monitoring does not eliminate the requirements for reviewing sonsors as specified in paragraph (e)(2) of this section.

(9) *Corrective actions.* Corrective actions which the State agency may take when Program violations are observed during the conduct of a review are discussed in § 225.13. The State agency shall conduct follow-up reviews as appropriate when corrective actions are required.

(f) *Food quality and preparation facility inspections.* The State agency shall make a positive effort to ensure that inspections of food preparation facilities and food service sites, including meal quality tests, are conducted. The procedures for carrying out the inspections and tests shall be consistent with procedures used by local health authorities. For inspections of facilities of food service management companies not conducted by State agency personnel, copies of the results of the inspections shall be provided to the State agency. The company and the sponsor shall also immediately receive a copy of the results of these inspections when corrective action is required.

(g) *Financial management.* Each State agency shall establish a financial management system, in accordance with Office of Management and Budget Circulars A–102 and A–87 and FNS guidance, to identify allowable Program costs and establish standards for sponsor recordkeeping and reporting. The State agency shall provide guidance on these financial management standards to each sponsor.

(h) *Nondiscrimination.* (1) Each State agency shall comply with the requirements of Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, and the Department's regulations concerning nondiscrimination issued thereunder (7 CFR Part 15), including requirements for racial and ethnic participation data collection, public notification of the nondiscrimination policy, and reviews to assure compliance with such policy, to the end that no person shall, on the grounds of race, color, national origin, sex or handicap be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Program. (2) Complaints of discrimination filed by applicants or participants shall be referred to FNS or the Secretary of Agriculture, Washington, D.C. 20250. A State agency which has an established grievance or complaint handling procedure may resolve sex and handicap discrimination complaints before referring a report to FNS.

§ 225.10 Records and reports.

(a) Each State agency shall maintain complete and accurate current accounting records of its Program operations which will adequately identify funds authorizations, obligations, unobligated balances, assets, liabilities, income, claims against sponsors and efforts to recover overpayments, and expenditures for administrative and operating costs. These records shall be retained for a period of three years after the date of the submission of the final Program Operations and Financial Status Report (SF–269), except that, if audit findings

have not been resolved, the affected records shall be retained beyond the three year period until such time as any issues raised by the audit findings have been resolved. The State agency shall also retain a complete record of each review or appeal conducted, as required under § 225.15, for a period of three years following the date of the final determination on the review or appeal. Records may be kept in their original form or on microfilm.

(b) By December 15 of each year the State agency shall provide FNS with information on the scope of Program operations within the State.

(c) Each State agency shall report information to FNS on the use of funds and on Program operations on a form provided by, and as instructed by, FNS.

(d) Not later than March 1 of each fiscal year, the State agency shall submit to FNS a final Operations and Financial Status Report for the prior fiscal year, on a form (SF–269) provided by FNS. Any requested increase in reimbursement levels for a fiscal year resulting from corrective action taken after submission of the final Program Operations and Financial Status Reports shall be submitted to FNS for approval. The request shall be accompanied by a written explanation of the basis for the adjustment and the actions taken to minimize the need for such adjustments in the future. If FNS approves of such an increase it will make payment, subject to the availability of funds. Any reduction in reimbursement for that fiscal year resulting from corrective action taken after submission of the final fiscal year Program Operations and Financial Status Reports shall be handled in accordance with the provisions of § 2555.14(d), except that amounts recovered may not be used to make Program payments.

(e) By October 15, each State agency shall submit to FNS, on a form provided by FNS, information concerning in each food service management company which applied to the State agency for registration for that calendar year's Program. FNS shall allow any food service management company to review the information concerning that company which was submitted to FNS in accordance with this paragraph.

§ 225.11 Program payments.

(a) *Start-up payments.* At their discretion, State agencies may make start-up payments to sponsors which have executed Program agreements. Start-up payments shall not be made more than two months before the sponsor is scheduled to begin food service operations and shall not exceed 20 percent of the sponsor's approved administrative budget. The amount of the start-up payment shall be deducted from the first advance payment for administrative costs or, if the sponsor does not receive advance payments, from the first administrative reimbursement.

(b) *Advance payments.* At the sponsor's request, State agencies shall make advance payments to assist sponsors in meeting operating costs and administrative expenses. For sponsors operating under a continuous school calendar, all advance payments shall be forwarded on the first day of each month of operation. Advance payments shall be made by the dates specified in subparagraphs (b) (1) and (2) of this section for all other sponsors whose requests are received at least 30 days prior to those dates. Requests received less than 30 days prior to those dates shall be acted upon within 30 days of receipt. When making advance payments, State agencies shall observe the following criteria:

(1) *Operating costs.* (i) State agencies shall make advance payments for operating costs by June 1, July 15, and August 15. To be eligile for the second advance payment, the sponsor must have conducted training sessions for its own personnel and site personnel covering Program duties and responsibilities. A sponsor shall not receive advance operating cost payments for any month in which it will participate in the Program for less than ten days.

(ii) To determine the amount of the advance payment to any sponsor, the State agency shall employ whichever of the following methods will result in the larger payment: (A) The total operating costs paid to the sponsor for the same calendar month in the preceding year, or (B) for sponsors contracting with a food service management company, 50 percent of the amount determined by the State agency to be needed that month for meals, and, for sponsors preparing their own meals, 65 percent of the amount determined by the State agency to be needed that month for meals.

(2) *Administrative costs.* (i) State agencies shall make advance payments for administrative costs by June 1 and July 15. To be eligible for the second advance payment, the sponsor must certify that it is operating the number of sites for which the administrative budget was approved and that its projected administrative costs do not differ significantly from the approved budget. A sponsor shall not receive advance administrative costs payments for any month in which it will operate under the Program for less than 10 days. However, if a sponsor operates for less than 10 days in June but for at least 10 days in August, the second advance administrative costs payment shall be made by August 15.

(ii) Each payment shall equal one-third of the total amount which the State agency determines the sponsor will need to administer its program. For sponsors which will operate for ten or more days only in one month and, therefore, will qualify for only one advance administrative costs payment, the payment shall be no less than one-half, and no more than two-thirds, of the total amount which the State agency determines the sponsor will need to administer its program.

(3) *Advance payment estimates.* When determining the amount of advance payments payable to the sponsor, the State agency shall make the best possible estimate based on the sponsor's request and any other available data. Under no circumstances may the amount of the advance payment for operating or administrative costs exceed the amount estimated by the State agency to be needed by the sponsor to meet operating or administrative costs, respectively.

(4) *Limit.* The sum of the advance operating and administrative costs payments to a sponsor for any one month shall not exceed $40,000 unless the State agency determines that a larger payment is necessary for the effective operation of the Program and the sponsor demonstrates sufficient administrative and managerial capability to justify a larger payment.

(5) *Deductions from advance payments.* The State agency shall deduct from either advance operating payments or advance administrative payments the amount of any previous payment which is under dispute or which is part of a demand for recovery under § 225.14.

(6) *Withholding of advance payments.* If the State agency has reason to believe that a sponsor will not be able to submit a valid claim for reimbursement covering the month for which advance payments have already been made, the subsequent month's advance payment shall be withheld until a valid claim is received.

(7) *Repayment of excess advance payments.* Upon demand of the State agency, sponsors shall repay any advance Program payments in excess of the amount cited on a valid claim for reimbursement.

(c) *Reimbursements.* Sponsors shall not be eligible for reimbursements for operating and administrative costs unless they have executed an agreement with the State agency. All

reimbursements shall be in accordance with the terms of this agreement. Reimbursements shall not be paid for meals served at a site before the sponsor has received written notification that the site has been approved for participation in the Program. Income accruing to a sponsor's program shall be deducted from combined operating and administrative costs. The State agency may make full or partial reimbursement upon receipt of a claim for reimbursement, but shall first make any necessary adjustments in the amount to be paid. The following requirements shall be observed in submitting and paying claims:

(1) No reimbursement may be issued until the sponsor certifies that it operated all sites for which it is approved and that there has been no significant change in its projected administrative costs since its proceding claim or, for a sponsor receiving an advance payment for only one month, that there has been no significant change in its projected administrative costs since its initial advance administrative costs payment.

(2) Claims for reimbursement shall be submitted by the 10th day of the month following the month for which the claim is made. The State agency may require that claims be submitted more frequently than once each month.

(3) Sponsors which operate less than 10 days in the final month of operations shall submit a combined claim for the final month and the month immediately preceding within 10 days of the last day of operation.

(4) The State agency shall forward reimbursements within 45 days of receiving valid claims. If a claim is incomplete or invalid, the State agency shall return the claim to the sponsor within 30 days with an explanation of the reason for disapproval. If the sponsor submits a revised claim, final action shall be completed within 45 days of receipt.

(5) The State agency is not required to act upon any claim for reimbursement which is not received within 30 days of the sponsor's last day of food service operations, unless the State agency determines that the late submission is due to circumstances beyond the sponsor's control, in which case payment shall be made if the claim is valid.

(6) Claims for reimbursement for any fiscal year shall not be considered if they are submitted later than the following December 31, with the exception of claims submitted on or before December 31 and subsequently amended as a result of audits or investigations.

(7) Claims for reimbursement shall include data sufficient to justify the amount claimed and to enable the State agency to provide the information required in Program reports. Sponsors shall also certify that records supporting the claim are available. The cost of meals served to adults performing necessary food service labor and the cost of meals disallowed by the State agency may be included in the claim. The State agency may choose to allow sponsors to include the cost of meals disallowed as meals served to the children, in accordance with § 225.13(e)(1) and (2) in its report of operating costs on its claim for reimbursement. In no case shall the cost of meals in excess of a site's approved level of meal service established under § 225.7(j) be considered allowable.

(8) The State agency shall promptly take corrective action with respect to any claim for reimbursement for which such action is determined necessary based upon the results of Program reviews or any other information available. The corrective action must be completed in time to be reflected in the final Program Operations and Financial Status report for each fiscal year if reimbursement for the claim is to be made available for that fiscal year through the Letter of Credit system described under § 225.4(j).

(9) Payments to a sponsor for operating costs shall equal the lesser of the following totals:

(i) The actual operating costs incurred by the sponsor, or

(ii) The sum of the amounts derived by multiplying the number of meals, by type, actually served under the sponsor's program to eligible children by 85.75 cents for each lunch or supper, 47.75 cents for each breakfast and 22.50 cents for each supplement. These are base rates of reimbursement, not current rates, and must be adjusted in accordance with paragraph(c)(11) of this section.

(10) Payments to a sponsor for administrative cost shall equal the lowest of the following totals:

(i) The amount estimated in the sponsor's approved administrative budget (taking into account any amendments);

(ii) The actual administrative costs incurred by the sponsor; or

(iii) The sum of the amounts derived by multiplying the number of meals, by type, actually served under the sponsor's program to eligible children by 6.75 cents for each lunch or supper, 3.50 cents for each breakfast and 1.75 cents for supplements, except that sponsors shall be eligible to receive an additional 1.50 cents for each lunch or supper, 1.00 cents for each breakfast, and .50 cents for each supplement served to participating children at rural or self-preparation sites. All rates in this paragraph are base rates of reimbursement, not current rates, and must be adjusted in accordance with paragraph (c)(11) of this section.

(11) Each January 1, FNS shall publish a notice in the **Federal Register** announcing any adjustment to the reimbursement rates described in paragraphs (c)(9)(ii) and (10)(iii) of this section. Adjustments shall be based upon changes in the series for food away from home of the Consumer Price Index for all Urban Consumers since the establishment of the rates.

(12) Sponsors of camps shall be reimbursed only for meals served to children in camps whose eligibility for free or reduced-price meals is documented. Any nonresidential camp reduced to fewer than four meal types per day under the terms of § 225.13(d) shall receive reimbursement only for those meals served to children eligible for free or reduced-price school meals.

(13) If a State agency has reason to believe that a sponsor or food service management company has engaged in unlawful acts in connection with Program operations, evidence found in audits, reviews, or investigations shall be a basis for nonpayment of the applicable sponsor's claims for reimbursement.

(d) The sponsor may claim reimbursement for any meals which are examined for meal quality by the State agency, auditors, or local health authorities and found to meet the meal pattern requirements.

(e) The sponsor shall not claim reimbursement for meals served at any sites in excess of the site's approved level of meal service, if one has been established under § 225.7(j). In reviewing a sponsor's claim, the State agency may limit payments to the sponsor according to the approved level for meal service which may be claimed for reimbursement at the sponsor's sites, as provided for in § 225.7(j).

§ 225.12 Audit and management evaluation.

(a) *Audits.* Audits of sponsors shall be conducted in accordance with the Department's Uniform Federal Assistance Regulations (7 CFR Part 3015), and Office of Management and Budget Circulars A–102 and A–110, as applicable. State agencies shall provide OIG with full opportunity to audit the State agency and sponsors. Each State agency shall make available its records, including records of the receipt and

expenditure of funds, upon a reasonable request from OIG. While OIG shall rely to the fullest extent feasible upon State-sponsored audits of sponsors, it shall, when considered necessary, (1) make audits on a State-wide basis, (2) perform on-site test audits, and (3) review audit reports and related working papers of audits performed by or for State agencies.

(b) State agencies shall provide FNS with full opportunity to conduct management evaluations (including visits to sponsors) of all operations of the State agency. Each State agency shall make available its records, including records of the receipts and expenditures of funds, upon a reasonable request by FNS.

(c) In addition to any management evaluation, FNSRO shall collect data on the need for Program and State administrative funding within any State agency if the funding needs estimated in a State's management and administration plan are no longer accurate. Based on this data, FNS may make adjustments in the level of State administrative funding paid or payable to the State agency under § 225.4(g) to reflect changes in the size of the State's Program as compared to that estimated in its management and administration plan. The data shall be based on approved Program participation levels and collected during the period of Program operations, but no later than August 20. Immediately following this data collection, payment of State administrative funds shall be made to the State agency. The payment may reflect adjustments in the level of State administrative funding, based on the information collected. FNS shall not decrease the amount of a State's administrative funds unless the State failed to make reasonable efforts to administer the Program as proposed in its management and administration plan or the State incurred unnecessary expenses.

(d) The State agency shall fully respond to any recommendations made by FNSRO pursuant to the management evaluation.

(e) FNSRO may require the State agency to submit on 20 days notice a corrective action plan regarding serious problems observed during any phase of the management evaluation.

(f) In conducting management evaluations or audits for any fiscal year, the State agency, FNS or OIG may disregard overpayment which does not exceed $100 or, in the case of State agency administered programs, does not exceed the amount established by State law, regulations or procedures as a minimum for which claims will be made for State losses generally. No overpayment shall be disregarded, however, when there are unpaid claims for the same fiscal year from which the overpayment can be deducted or when there is substantial evidence of violation of criminal law or civil fraud statutes.

§ 225.13 Corrective action procedures.

(a) *Purpose.* The provisions in this section shall be used by the State agency to improve Program performance.

(b) *Investigations.* Each State agency shall promptly investigate complaints received or irregularities noted in connection with the operation of the Program, and shall take appropriate action to correct any irregularities. The State agency shall maintain on file all evidence relating to such investigations and actions. The State agency shall inform the appropriate FNSRO of any suspected fraud or criminal abuse in the Program which would result in a loss or misuse of Federal funds. The Department may make investigations at the request of the State agency, or where the Department determines investigations are appropriate.

(c) *Denial of applications and termination of sponsors.* Except as specified below, the State agency shall not enter into an agreement with any applicant sponsor identifiable through its corporate organization, officers, employees, or otherwise, as an institution which participated in any Federal child nutrition program and was seriously deficient in its operation of any such program. The State agency shall terminate the Program agreement with any sponsor which it determines to be seriously deficient. However, the State agency shall afford a sponsor reasonable opportunity to correct problems before terminating the sponsor for being seriously deficient. The State agency may approve the application of a sponsor which has been disapproved or terminated in prior years in accordance with this paragraph if the sponsor demonstrates to the satisfaction of the State agency that the sponsor has taken appropriate corrective actions to prevent recurrence of the deficiencies. Serious deficiencies which are grounds for disapproval of applications and for termination include, but are not limited to, any of the following:

(1) Noncompliance with the applicable bid procedures and contract requirements of federal child nutrition program regulations;

(2) The submission of false information to the State agency;

(3) Failure to return to the State agency any start-up or advance payments which exceeded the amount earned for serving meals in accordance with this part, or failure to submit all claims for reimbursement in any prior year, provided that failure to return any advance payments for months for which claims for reimbursement are under dispute from any prior year shall not be grounds for disapproval in accordance with this paragraph.

(4) Program violations at a significant proportion of the sites which include, but are not limited to, the following:

(i) Noncompliance with the between meal time requirements;

(ii) Failure to maintain adequate records;

(iii) Failure to adjust meal orders to conform to variations in the number of participating children;

(iv) The simultaneous service of more than one meal to any child;

(v) The claiming of Program payments for meals not served to participating children;

(vi) Service of a significant number of meals which did not include required quantities of all meal components;

(vii) Excessive instances of off-site meal consumption;

(viii) Continued use of food service management companies that are in violation of health codes.

(d) *Meal service restriction.* The State agency shall restrict to one meal service per day (1) any food service site which is determined to be in violation of the time restrictions for meal service included in § 225.20(a) when corrective action is not taken within a reasonable time as determined by the State agency, and (2) all sites under a sponsor if more than 20 percent of the sponsor's sites are determined to be in violation of the time restrictions included in § 225.20(a). If this action results in children not receiving any meals under the Program, the State agency shall make reasonable effort to locate another source of meal service for the children.

(e) *Meal Disallowances.* (1) Meal disallowances for improper planning. If the State agency determines that a sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service at a site, the State agency shall disallow as meals served to children the number of meals prepared or ordered in excess of the number of children served.

(2) Meal disallowances for violations of meal service requirements. If the State agency observes meal service violations during the conduct of a site review, the State agency shall disallow as meals served to children all of the meals observed to be in violation.

(3) The State agency shall also disallow any meals which are in excess of a site's approved level established under § 225.7(j).

(4) Whenever the State agency observes violations during the course of a site review, it shall require the sponsor to take corrective action. If the State agency finds a high level of meal service violations, the State agency shall require a specific immediate corrective action plan to be followed by the sponsor and shall either conduct a follow-up visit or in some other manner verify that the specified corrective action has been taken. Paragraph (f) of this section indicates actions the State agency shall undertake if corrective action has not been taken.

(f) *Termination of sites.* (1) The State agency shall terminate the participation of a sponsor's site if the sponsor fails to take action to correct the Program violations noted in a State agency review report within the timeframes established by the State agency and specified in the review report.

(2) The State agency shall immediately terminate the participation of a sponsor's site if during a review it determines that the health or safety of the participating children is imminently threatened.

(3) Within 48 hours of terminating a site, the State agency shall, if applicable, notify the food service management company providing meals to the site of the termination.

§ 225.14 Claims against sponsors.

(a) The State agency shall disallow any portion of a claim for reimbursement and recover any payment to a sponsor not properly payable under this part, except as provided for in § 225.12(f). However, the State agency shall notify the sponsor of the reasons for the disallowance or demand for repayment.

(b) Minimum State agency collection procedures for unearned payments shall include: (1) Written demand to the sponsor for the return of improper payments; (2) If after 30 calendar days the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, a second written demand for the return of improper payments, sent by certified mail, return receipt requested; (3) If after 60 calendar days following the original written demand, the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, a third written demand for the return of improper payments, sent by certified mail, return receipt requested; and (4) If after 90 calendar days following the original written demand, the sponsor fails to remit full payment or agree to a satisfactory repayment schedule, the State agency shall refer the claim against the sponsor to appropriate State or Federal authorities for pursuit of legal remedies.

(c) If FNS does not concur with the State agency's action in paying a sponsor, in failing to collect an overpayment, FNS shall notify the State agency of its intention to assert a claim against the State agency. In all such cases, the State agency shall have full opportunity to submit evidence concerning the action taken. The State agency shall be liable to FNS for failure to collect an overpayment unless FNS determine that the State agency has conformed with this part in issuing the payment and has exerted reasonable efforts in accordance with paragraph (b) of this section to recover the improper payment.

(d) The amounts recovered by the State agency from sponsors may be utilized (1) to make Program payments to sponsors for the period for which the funds were initially available, and (2) to repay the State for any of its own funds used to make payments on claims for reimbursement. Any amounts recovered which are not so utilized shall be returned to FNS in accordance with the requirements of this part.

§ 225.15 Appeal procedures.

(a) Each State agency shall establish a procedure to be followed by an applicant requesting a review of a denial of an application for participation, a denial of a request by a sponsor for an advance payment, a denial of a claim by a sponsor for reimbursement, a claim against a sponsor for remittance of a payment, the termination of the sponsor or a site, a denial of a sponsor's application for a site, a denial of a food service management company's application for registration, or revocation of that registration.

(b) At a minimum, the procedures for those reviews shall provide that:

(1) The sponsor or food service management company be advised in writing of the grounds upon which the State agency based the action. The notice of action which shall be sent by certified mail, return receipt requested, shall also include a statement indicating that the sponsor or food service management company has the right to appeal the action of the State;

(2) The sponsor or food service management company be advised in writing that the request for review must be made within a specified time and must meet the requirement of paragraph (b)(4) of this section. The State agency shall establish this period of time at not less than one week nor more than two weeks from the date of receipt of the notice of action;

(3) The appellant be afforded the opportunity to review any information upon which the action was based;

(4) The appellant may refute the charges contained in the notice of action either in person or by filing written documentation with the review official. To be considered, written documentation must be submitted by the appellant within seven days of submitting the request for review, must clearly identify the State agency action being appealed, and must include a photocopy of the notice of action issued by the State agency;

(5) A hearing shall be held by the review official in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter of request for review. The appellant may retain legal counsel, or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the review official, unless the review official agrees to reschedule the hearing. A representative of the State agency shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the review official;

(6) If the appellant has requested a hearing, the appellant and the State agency shall be provided with at least 5 days advance written notice, sent by certified mail, return receipt requested, of the time and place of the hearing;

(7) The hearing shall be held within 14 days of the date of the receipt of the request for review, but, where applicable, not before the appellant's written documentation is received in accordance with paragraph (b)(5) of this section;

(8) The review official shall be independent of the original decision-making process;

(9) The review official shall make a determination based on information provided by the State agency and the appellant, and on Program regulations;

(10) Within 5 working days after the appellant's hearing, or within 5 working days after receipt of written documentation if no hearing is held, the reviewing official must make a determination based on a full review of the administrative record and inform the appellant of the determination of the review by certified mail, return receipt requested;

(11) The State agency's action shall remain in effect during the appeal process. However, participating sponsors and sites may continue to operate under the Program during an appeal of termination, and if the appeal results in overturning the State agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued operation under the Program shall not be allowed if the State agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the State agency shall so specify in its notice of action; and

(12) The determination by the State review official is the final administrative determination to be afforded to the appellant.

(c) The State agency shall send written notification of the complete appeal procedures and of the actions which are appealable, as specified in § 225.15(a):

(1) To each potential sponsor upon application, and

(2) To each food service management company upon application for registration under § 225.16(c).

(d) A record regarding each review shall be kept by the State agency, as required under § 225.10(a). The record shall document the State agency's compliance with these regulations and shall include the basis for the decision.

§ 225.16 Procedures for food service management companies.

(a) Any sponsor may contract with a food service management company for the preparation of unitized meals with or without milk or juice. In all cases, the sponsor shall adhere to the procurement standards indicated in §225.17. All meals prepared by a food service management company shall be unitized, with or without milk or juice, unless the sponsor submits to the State agency a request for exceptions to the unitizing requirement for certain components of a meal. These requests shall be submitted to the State agency in writing prior to advertising for bids. The State agency shall notify the sponsor in writing of its determination in a timely manner.

(b) Any sponsor which contracts with a food service management company shall be responsible for ensuring that the food service operation is in conformity with its agreement with the State agency and all the applicable provisions of this part. No sponsor may contract out for the management responsibilities of the Program such as monitoring, enforcing corrective action, or preparing Program applications.

(c) A sponsor may contract only with a food service management company which is registered with the State in which the sponsor will operate the Program, except that a school or school food authority acting as a food service management company and a food service management company which has an exclusive contract with a school or school food authority for year-round service (and no contracts with other sponsors) shall not be required to register with the State. The procedures for registration of all other food service management companies are as follows:

(1) By February 1, each State agency shall notify each food service management company which participated in the Program in either of the prior two years in the State that it must register with the State agency. This notification shall include, at a minimum: (i) A statement that registration with the State agency is a prerequisite to participation in the Program during the fiscal year; (ii) a list of the items which must be submitted in the application for registration as set forth in subparagraph (c)(2) of this section; (iii) a complete description of the criteria developed by the State agency for determining registrant eligibility; and (iv) any other information necessary to apply for registration. In addition, each State agency shall by the same date issue a public announcement of the registration requirement, including all the information necessary to apply for registration.

(2) With the exceptions described in the first sentence of this paragraph, each food service management company shall register with the State by March 15 of each fiscal year. At a minimum, registration shall require: (i) Submission of name and mailing address and any other names under which such food service management company presently or in the past two years has marketed its services; (ii) a certification that the food service management company meets applicable State and local health, safety, and sanitation standards; (iii) disclosure of present company owners, directors, and officers, and their relationship in the past two years to any sponsor or food service management company which participated in the Program; (iv) records of contract terminations, disallowances, and health, safety, and sanitation code violations related to prior Program participation during the past two years; (v) records of any other contract terminations and health, safety, and sanitation code violations during the past two years; (vi) the address or addresses of the company's food preparation and distribution facilities which will be used in the Program and the local officials responsible for the operation of the facilities; (vii) the number of meals which can be prepared in each preparation facility in a twenty-four hour period for use in the Program; (viii) a certification that the food service management company will operate in accordance with current Program regulations; (ix) a statement that the food service management company understands that it will not be paid for meals which are delivered to non-approved sites, or for meals which are delivered to approved sites outside of the agreed upon delivery time, or meals that do not meet the meal requirements and food specifications contained in the contract between the sponsor and the food service management company; and (x) submission of a Certified Public Accountant's audit report if an audit was performed during the prior year and, (xi) a statement as to whether the organization is a minority business enterprise. A minority business enterprise is a business,

(A) In which the management and daily operations of the business are controlled by a member or members of a minority group; and

(B) At least 51 percent of which is owned by a member or members of a minority group; (*1*) if the business is a corporation, at least 51 percent of all classes of voting stock of the corporation must be owned by members of a minority group; (*2*) if the business is a partnership, at least 51 percent of the partnership must be owned by a member or members of a minority group. Minority groups are Blacks, Hispanics, American Indians, Alaskan Native, Orientals and Aleuts.

(3) A State agency shall consider a food service management company's application for registration submitted after March 15 of the current year, if the State agency determines and documents that the lack of registration could result in a significant number of needy children not having reasonable access to the Program.

(4) Prior to registration, the State agency shall provide for inspections of all food service management companies' food preparation facilities listed on the applications for registration, except those located outside the State. The State agency shall promptly notify FNSRO of the name and location of any out-of-State facility, and FNSRO shall ensure that the falility is inspected prior to registration. The purpose of the inspection is to evaluate each facility's suitability for preparation of meals for use in the Program. The State agency may waive this inspection requirement if a facility was registered last summer

and operated in accordance with Program requirements.

(5) No food service management company shall be registered by the State agency if the State agency determines that the company lacks the administrative and financial capability to perform under the Program or if it is identifiable through its organization or principals as a food service management company which participated in the Program during any previous year and was seriously deficient in its Program operation. Serious deficiencies which are grounds for non-registration include, but are not limited to, any of the following:

(i) Noncompliance with the applicable bid procedures, contract requirements or Program regulations;

(ii) Submission of false information to the State agency;

(iii) Failure to conform meal deliveries to meal orders;

(iv) Delivery of a significant number of meals which do not meet contract requirements;

(v) Failure to maintain adequate records;

(vi) Significant health code violations which were not corrected upon reinspection;

(vii) Failure to deliver meals; or

(viii) The conviction of any officer, owner, partner, or manager of the company for a crime in connection with a prior Program operation.

(6) Each State agency shall require food service management companies submitting applications for registration to certify that the information submitted is true and correct and that the food service management company is aware that misrepresentation may result in prosecution under applicable State and Federal statutes.

(7) The State agency shall notify in writing each food service management company which applied for registration of its determination on the application within 30 calendar days after receipt of the complete application. The official making the determination of denial must notify the food service management company in writing, stating all the grounds on which the State agency based the denial.

(8) Each State agency shall submit information to FNS regarding registration of food service management companies, as required under § 225.10(e).

(d) In the absence of any applicable State of local laws governing bid procedures and with the exceptions identified in this paragraph, each sponsor which contracts with a food service management company shall comply with the competitive bid procedures described in this paragraph. Sponsors which are schools or school food authorities which have an exclusive contract with food service management companies for year-round service and sponsors whose total contracts with food service management companies will not exceed $10,000, shall not be required to comply with these procedures. These exceptions do not relieve the sponsor of the responsibility to ensure that normally accepted bidding procedures are followed in contracting with any food service management company. Each sponsor whose proposed contract is subject to competitive bidding procedures shall ensure, at a minimum, that:

(1) All proposed contracts shall be publicly announced at least once, not less than 14 calendar days prior to the opening of bids, and the announcement shall include the time and place of the bid opening;

(2) The bids shall be publicly opened; and

(3) The State agency is notified at least 14 calendar days prior to the opening of the bids, of the time and place of the bid opening.

(4) When advertising for bids, the sponsor shall adhere to the following requirements, at a minimum:

(i) The invitation to bid shall not specify a minimum price;

(ii) The invitation to bid shall contain a cycle menu approved by the State agency upon which the bid shall be based;

(iii) The invitation to bid shall contain food specifications and meal quality standards approved by the State agency upon which the bid shall be based;

(iv) The invitation to bid shall not specify special meal requirements to meet ethnic or religious needs unless such special requirements are necessary to meet the needs of the children to be served;

(v) Neither the invitation to bid nor the contract shall provide for loans or any other monetary benefit or term or condition to be made to sponsors by food service management companies;

(vi) Nonfood items shall be excluded from the invitation to bid, except where such items are essential to the conduct of the food service.

(5) A copy of the food service management company registration determination issued by the State agency shall be submitted by the food service management company with each bid;

(6) Sponsors shall submit to the State agency copies of all bids received and their reason for selecting the food service management company chosen;

(7) All bids in an amount which exceeds the lowest bid shall be submitted to the State agency for approval before acceptance. All bids totaling $100,000 or more shall be submitted to the State agency for approval before acceptance. State agencies shall respond to a request for approval of such bids within 5 working days of receipt.

(e) Each State agency shall develop a standard form of contract for use by sponsors in contracting with food service management companies. (Sponsors which are public institutions and sponsors exempt from the competitive bid procedures described in paragraph (d) of this section may use their existing or usual form of contract, if such form of contract has been submitted to and approved by the State agency.) The standard contract developed by the State agency shall expressly and without exception provide that:

(1) The sponsor shall provide to the food service management company a list of State agency approved food service sites, along with the approved level for the number of meals which may be claimed for reimbursement for each site (established under § 225.7(j)), and shall notify the food service management company of all sites which have been approved, cancelled, or terminated subsequent to the submission of the initial approved site list and of any changes in the approved level of meal service for a site. Such notification shall be provided within the time limits mutually agreed upon in the contract;

(2) The food service management company shall maintain such records (supported by invoices, receipts, or other evidence) as the sponsor will need to meet its responsibilities under this part, and shall report to the sponsor promptly at the end of each month, at a minimum;

(3) The food service management company shall have State of local health certification for the facility in which it proposes to prepare meals for use in the Program, and it shall ensure that health and sanitation requirements are met at all times. In addition, the food service management company shall provide for meals which it prepares to be periodically inspected by the local health department or an independent agency to determine bacteria levels in the meals being served. These levels shall conform to the standards which are applied by the local health authority with respect to the level of bacteria which may be present in meals served by other food service establishments in the locality. Results of the inspections

shall be submitted to the sponsor and to the State agency;

(4) The meals served under the contract shall conform to the cycle menus and meal quality standards and food specifications approved by the State agency and upon which the bid was based;

(5) The books and records of the food service management company pertaining to the sponsor's food service operation shall be available for inspection and audit by representatives of the State agency, the Department, and the U.S. General Accounting Office at any reasonable time and place for a period of 3 years from the date of receipt of final payment under the contract;

(6) The sponsor and the food service management company shall operate in accordance with current Program regulations;

(7) The food service management company shall be paid by the sponsor for all meals delivered in accordance with the contract and this part. However, neither the Department nor the State agency assumes any liability for payment of differences between the number of meals delivered by the food service management company and the number of meals served by the sponsor that are eligible for reimbursement;

(8) Meals shall be delivered in accordance with a delivery schedule prescribed in the contract;

(9) Increases and decreases in the number of meals ordered shall be made by the sponsor, as needed, within a prior notice period mutually agreed upon;

(10) All meals served under the Program shall meet the requirements of § 225.20;

(11) In cases of nonperformance or noncompliance on the part of the food service management company, the company shall pay the sponsor for any excess costs the sponsor incurs by obtaining meals from another source; and

(12) If the State agency requires the sponsor to establish a special account for the deposit of operating costs payments made by the State agency to the sponsor in accordance with the conditions given in § 225.8(e), the contract shall so specify.

(f) A food service management company entering into a contract with a sponsor under the Program shall not subcontract for the total meal, with or without milk, or for the assembly of the meal.

(g) Each State agency shall have a representative present at all procurement bid openings of sponsors which expect to receive more than $100,000 in Program payments.

(h) The State agency may require any sponsor which contracts with a food service management company to establish a special account in a State or Federally insured bank for the deposit of Program payments for operating costs. The special account shall be such that any disbursement of monies from the account must be authorized by both the sponsor and the food service management company, and shall be in accordance with the other specifications included in § 225.8(e).

(i) Copies of all contracts between sponsors and food service management companies, along with a certification of independent price determination, shall be submitted to the State agency prior to the beginning of Program operations.

(j) Each food service management company which submits a bid over $100,000 shall obtain a bid bond in an amount not less than five (5) percent nor more than ten (10) percent, as determined by the sponsor, of the value of the contract for which the bid is made. A copy of the bid bond shall accompany each bid.

(k) Each food service management company which enters into a food service contract for over $100,000 with a sponsor shall obtain a performance bond in an amount not less than ten (10) percent nor more than twenty-five (25) percent of the value of the contract as determined by the State agency. Any food service management company which enters into more than one contract with any one sponsor shall obtain a performance bond covering all contracts if the aggregate amount of the contracts exceeds $100,000. Sponsors shall require the food service management company to furnish a copy of the bond within ten days of the awarding of the contract.

(l) Food service management companies shall obtain bid bonds and performance bonds only from surety companies listed in the current Department of the Treasury Circular 570.

(m) Failure by a sponsor to comply with the provisions of this section shall be sufficient grounds for the State agency to terminate participation by the sponsor in accordance with § 225.22(b). If a food service management company fails to take the actions recommended to correct violations noted by the State agency or health inspectors in the conducting of a review or inspection, the State agency shall notify the sponsor and the food service management company that reimbursement shall not be paid for meals prepared by the food service management company after a date specified in the notification.

§ 225.17 Procurement standards.

(a) State agencies and sponsors which are Federally recognized Indian tribal governments or entities of local governments (such as some school districts, elementary and secondary schools, and public park authorities) shall comply with the standards prescribed in Attachment O of Office of Management and Budget Circular A–102 in the procurement of food, supplies, goods, and other services with Program payments.

(b) All sponsors other than those identified in paragraph (a) of this section shall comply with the standards prescribed in Attachment O of Office of Management and Budget Circular A–110 in the procurement of food, supplies, goods, and other services with Program payments.

(c) The State agency shall make available to sponsors information on Office of Management and Budget Circulars A–102 and A–110, as appropriate.

(d) Sponsors may use their own procurement procedures which reflect applicable State and local laws and regulations, provided that procurements made with Program funds conform with provisions of this section, as well as with procurement requirements which may be established by the State agency, with the approval of FNS, to prevent fraud, waste, and Program abuse.

(e) The State agency shall ensure that all sponsors are aware of the following practices specified in OMB Circular A–102, with respect to minority business enterprises:

(1) Including qualified minority business enterprises on solicitation lists,

(2) Soliciting minority business enterprises whenever they are potential sources,

(3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by minority business enterprises,

(4) Establishing delivery schedules which will assist minority business enterprises to meet deadlines, and

(5) Using the services and assistance of the Small Business Administration, and the Office of Minority Business Enterprise of the Department of Commerce as required.

§ 225.18 Requirements for sponsor participation.

(a) *Sponsor eligibility.* Applicants eligible to sponsor the Program include:

(1) Public or nonprofit private school food authorities;

(2) Public or nonprofit private residential summer camps; and

(3) Units of local, municipal, county, or State governments.

(b) *Requirements.* No applicant sponsor shall be eligible to participate in the Program unless it:

(1) Demonstrates financial and administrative capability for Program operations and accepts final financial and administrative responsibility for total Program operations at all sites at which it proposes to conduct a food service.

(2) Has not been seriously deficient in operating the Program in the prior three years.

(3) Will conduct a regularly scheduled food service for children from areas in which poor economic conditions exist or qualifies as a camp.

(4) Has adequate supervisory and operational personnel for overall monitoring and management of each site including adequate personnel to conduct the visits and reviews required in § 225.19 (g) and (h).

(5) Provides an ongoing year-round service to the community which it proposes to serve under the Program, except as provided for in § 225.7(f);

(6) Certifies that all sites have been visited and have the capability and the facilities for the meal service planned for the number of children anticipated to be served;

(7) If not a camp, provides documentation that its food service will serve children from an area in which poor economic conditions exist, as defined in § 225.2. If a camp, certifies that it will collect family size and income information to support its claim for reimbursement;

(8) If a summer school is open to serve children in addition to those enrolled in the accredited school program or is a school serving children outside of the summer school hours; and

(9) Each applicant described under § 225.18(a)(3) shall only be approved to provide the Program at sites which it certifies will be directly operated by the applicant. Such direct operation means that the applicant will be responsible for: (i) Managing site staff, including such areas as hiring, conditions of employment, and termination and (ii) the management of the Program operations at sites during the period of Program participation.

(c) *Applications.* Applicants shall make written application to the State agency for participation in the Program as sponsors. Such application shall be made on a timely basis in accordance with the requirements of § 225.8.

(d) *Agreements.* Each sponsor shall enter into a written agreement with the State agency upon approval of its application, as required in § 225.8(b).

(e) *Meal services.* The meals which may be served under the Program are breakfast, lunch, supper, and supplemental food. No sponsor shall be approved to provide more than two services of supplemental food per day. A sponsor shall only be reimbursed for meals served in accordance with paragraphs (f) and (g) of this section.

(f) *Camps.* Sponsors of camps shall only be reimbursed for meals served in camps to children from families which qualify for free and reduced price meals under the guidelines established for the National School Lunch Program (7 CFR Part 210). The sponsor shall maintain a copy of the family size and income documentation of each child receiving meals under the Program. Meal service at camps shall be subject to the following provisions:

(1) A camp may serve up to four meals each day.

(2) Residential camps are not subject to the time restrictions for meal service given in § 225.20(a)(1).

(3) A camp shall be approved to serve these meals only if it has the administrative capability and, where applicable, adequate food preparation and holding facilities, and if the service period of the different meals does not coincide or overlap.

(g) *Sites other than camps and those serving migrant children.* Food service sites other than camps shall serve children in areas where poor economic conditions exist, as defined in § 225.2. A sponsor which operates in accordance with this part shall receive reimbursement for all meals served to children at these sites in accordance with this part. Food service sites other than camps and those which primarily serve migrant children may serve either (1) one meal each day, a breakfast, a lunch, or a supplement, or (2) two meals each day, if one is a lunch and the other is a breakfast or a supplement.

(h) *Sites which serve children of migrant families.* Food service sites which primarily serve children from migrant families may be approved to serve up to four meals each day. These sites shall serve children in areas where poor economic conditions exist as defined in § 225.2. A sponsor which operates in accordance with this part shall receive reimbusement for all meals served to children at these sites. A site which primarily serves children from migrant families shall only be approved to serve more than one meal each day if it has the administrative capability and, where applicable, adequate food preparation and holding facilities, and if the service period of the different meals does not coincide or overlap.

(i) No site shall be eligible to participate in both this Program and the Special Milk Program (7 CFR Part 215).

§ 225.19 Operational responsibilities of sponsors.

(a) Sponsors shall operate the food service in accordance with the provisions of this part and any instructions and handbooks issued by FNS under this part or issued by the State agency which are not inconsistent with the provisions of this part.

(b) Each sponsor shall, to the maximum extent feasible, utilize either its own food service facilities, or obtain meals from a school food service facility. If the sponsor obtains meals from a school food service facility the applicable requirements of this part shall be embodied in a written agreement between the sponsor and the school.

(c) Upon approval of its application or any adjustment in the approved levels of meal service for its sites, established under § 225.7(j), the sponsor shall inform the food service management company with which the sponsor contracts of the approved level for each meal service at each site for which the food service management company will provide meals.

(d) Sponsors shall plan for and prepare or order meals on the basis of participation trends with the objective of providing only one meal per child at each meal service. The sponsor shall make the adjustments necessary to achieve this objective using the results from its monitoring of sites. For sites for which approved levels of meal service have been established in accordance with § 225.7(j), this means that the sponsor shall adjust the number of meals ordered or prepared with the objective of providing only one meal per child whenever the number of children attending the site is below the approved level. In no case shall the sponsor order or prepare meals for any site in excess of the site's approved level. Records of participation and of preparation or ordering of meals shall be maintained to demonstrate positive action toward this objective. In recognition of the fluctuation in participation levels which makes it difficult to estimate precisely the number of meals needed and to reduce the resultant waste, any excess meals within the approved level for the site that are prepared or ordered may be served to children and claimed for reimbursement unless the State agency determines that the sponsor has failed to plan and prepare or order meals with the objective of providing only one meal per child at each meal service. Second

meals shall be served only after all participating children at the site's meal service have been served a meal. In no case shall the sponsor order or prepare meals for any site in excess of its approved level, established in accordance with § 225.7(j).

(e) Sponsors shall submit claims for reimbursement only for meals served to children in accordance with this part. Claims shall be submitted by the 10th day of the month following the month for which the claim is made. However, the State agency may require that claims be submitted more frequently.

(f) Sponsors shall maintain accurate records which justify all costs and meals claimed. The sponsor's records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and the State agency for a period of three years following the date of submission of the final claim for reimbursement for the fiscal year.

(g) Sponsors shall visit each of their sites at least once during the first week of operation under the Program and shall promptly take such actions as are necessary to correct any deficiencies.

(h) Sponsors shall review food service operations at each site at least once during the first four weeks of Program operations, and thereafter shall maintain a reasonable level of site monitoring. Sponsors shall complete a monitoring form developed by the State agency during the conduct of these reviews.

(i) Each sponsor shall hold training sessions for its administrative and site personnel with regard to Program duties and allow no site to operate until personnel have attended at least one of these training sessions. Training of site personnel, at a minimum, shall include: the purpose of the Program, site eligibility, recordkeeping, site operations, meal pattern requirements, and duties of a monitor. Each sponsor shall ensure that its administrative personnel attend State agency training provided to sponsors, and sponsors shall provide training throughout the summer to ensure that administrative personnel are thoroughly knowledgeable in all required areas of Program administration and operation and are provided with sufficient information to enable them to carry out their Program responsibilities. Each site shall have present at each meal service at least one person who has received this training.

(j) Sponsors shall not claim reimbursement under Parts 210, 215, 220, or 226 of this chapter, or any other Federally-funded program for meals served under the Program.

§ 225.20 Meal service requirements.

(a) *Time restrictions for meal service.* (1) Three hours shall elapse between the beginning of one meal service, including supplements, and the beginning of another, except that 4 hours shall elapse between the service of a lunch and supper when no supplement is served between lunch and supper. The service of supper shall begin no later than 7 p.m., unless the State agency has granted a waiver of this requirement due to extenuating circumstances. These waivers shall be granted only when the State agency and the sponsor ensure that special arrangements shall be made to monitor these sites. In no case may the service of supper extend beyond 8 p.m. The time restrictions in this subparagraph shall not apply to residential camps.

(2) The duration of the meal service shall be limited to two hours for lunch or supper and one hour for all other meals.

(3) Meals served outside of the period of approved meal service shall not be eligible for Program payments.

(4) Any permanent or planned changes in meal service periods must be approved by the State agency.

(5) Meals for each meal service which are not prepared at the food service site shall be delivered within one hour of the beginning of the appropriate meal service unless the site has adequate facilities for holding hot or cold meals within the temperatures required by State of local health regulations.

(6) The sponsor shall serve only the type(s) of meals for which it is approved under its agreement with the State agency.

(b) *Meal patterns.* The meal requirements for the Program are designed to provide nutritious and well-balanced meals to each child. Sponsors shall ensure that meals served meet all of the requirements. Except as otherwise provided in this section, the following tables present the minimum requirements for meals served to children in the Program.

Breakfast [1]

(1) The minimum amount of food components to be served as breakfast are as follows:

Food components	Minimum amount
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)	½ cup.[1]

[1] Children age 12 and up may be served adult-size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section.

Food components	Minimum amount
or	
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	½ cup (4 fl. oz.)
Bread and Bread Alternates [2]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc.[3].	1 serving.
or	
Cold dry cereal [4]	¾ cup or 1 oz.
or	
Cooked cereal or cereal grains	½ cup.
or	
Cooked pasta or noodle products or an equivalent quantity of any combination of bread/bread alternate.	½ cup.
Milk [5]	
Milk, fluid	1 cup (½ pint, 8 fl. oz).
Meat and Meat Alternates (*Optional*)	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ cup.
or	
Peanut butter or an equivalent quantity of any combination of meat/meat alternate.	2 tbsp.

[1] For the purposes of the requirement outlined in this subsection, a cup means a standard measuring cup.
[2] Bread, pasta or noodle products, and cereral grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain, enriched or fortified.
[3] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.
[4] Either volume (cup) or weight (oz.), whichever is less.
[5] Milk shall be served as a beverage or on cereal, or used in part for each purpose.

Lunch or Supper [1]

(2) The minimum amounts of food components to be served as lunch or supper are as follows:

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish	2 oz.
or	
Cheese	2 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ cup.[1]
or	
Peanut butter or an equivalent quantity of any combination of meat/meat alternate.	4 tbsp.
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)[2]	¾ cup total.
Bread and Bread Alternates[3]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc.	1 serving.[4]
or	
Cooked pasta or noodle products.	½ cup.

Food components	Minimum amount
or	
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	½ cup.
Milk	
Milk, fluid, served as a beverage	1 cup (½ pint, 8 fl. oz.).

[1] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[2] Serve 2 or more kinds of vegetable(s) and/or fruit(s) or a combination of both. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
[3] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.
[4] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.

Supplemental Food:

(3) The minimum amounts of food components to be served as supplemental food are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	1/2 cup.[1]
or	
Peanut butter or an equivalent quantity of any combination of meat/meat alternate.	2 tbsp.
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)	3/4 cup.
or	
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.	3/4 cup (6 fl. oz.)
Bread and Bread Alternates [2]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc [3].	1 serving.
or	
Cold dry cereal [4]	3/4 cup or 1 oz.
or	
Cooked cereal	1/2 cup.
or	
Cooked pasta or noodle products.	1/2 cup.
or	
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	1/2 cup.
Milk [5]	
Milk, fluid	1 cup (1/2 pint, 8 fl. oz.).

[1] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[2] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour, cereal shall be whole-grain or enriched or fortified.
[3] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.
[4] Either volume (cup) or weight (oz.), whichever is less.
[5] Milk should be served as a beverage or on cereal, or used in part for each purpose.

(c) *Meat or meat alternate.* Meat or meat alternates served under the Program are subject to the following requirements and recommendations.

(1) The required quantity of meat or meat alternate shall be the quantity of the edible portion as served. These foods must be served in a main dish, or in a main dish and one other menu item.

(2) Cooked dry beans or peas may be used as a meat alternate or as a vegetable, but they may not be used to meet both component requirements in a meal.

(3) Textured vegetable protein products, cheese alternate products, and enriched macaroni with fortified protein may be used to meet part, but not all, of the meat/meat alternate requirement. The Department will provide guidance to State agencies on the part of the meat/meat alternate requirement which these foods may be used to meet. If enriched macaroni with fortified protein is served as a meat alternate, it shall not be counted toward the bread requirement.

(4) If the sponsor believes that the recommended portion size of any meat or meat alternate is too large to be appealing to children, the sponsor may reduce the portion size of that meat or meat alternate and supplement it with another meat or meat alternate to meet the full requirement.

(d) *Varying amounts.* The State agency may authorize the sponsor to serve food in smaller quantities than are indicated in paragraph (b) of this section to children under six years of age if the State agency determines that the sponsor has the capability to ensure that variations in portion size are in accordance with the age levels of the children served. In such cases, the sponsor shall follow the age-appropriate meal pattern requirements contained in the Child Care Food Program regulations (7 CFR Part 226).

(e) *Infant meal patterns.* Sponsors approved to serve children under one year of age shall be required to comply with the applicable meal requirements contained in the Child Care Food Program regulations (7 CFR Part 226).

(f) *Additional foods.* To improve the nutrition of participating children, additional foods may be served with each meal.

(g) *Temporary unavailability of milk.* If emergency conditions prevent a sponsor normally having a supply of milk from temporarily obtaining milk deliveries, the State agency may approve the service of breakfasts, lunches or suppers without milk during the emergency period.

(h) *Continuing unavailability of milk.* The inability of a sponsor to obtain a supply of milk on a continuing basis shall not bar it from participation in the program. In such cases, the State agency may approve service of meals without milk, provided that an equivalent amount of canned, whole dry or nonfat dry milk is used in the preparation of the components of the meal set forth in the tables included in this section. In addition, the State agency may approve the use of nonfat dry milk in meals served to children participating in activities which make the service of fluid milk impracticable, and in locations which are unable to obtain fluid milk. Such authorization shall stipulate that nonfat dry milk be reconstituted at normal dilution and under sanitary conditions consistent with State and local health regulations.

(i) *Statewide substitutions.* In American Samoa, Puerto Rico, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, the following variations from the meal requirements are authorized: a serving of a starchy vegetable, such as ufi, tanniers, yams, plantains, or sweet potatoes may be substituted for the bread requirements.

(j) *Individual substitutions.* Substitutions may be made by sponsors in food listed in paragraph (b) of this section if individual participating children are unable, because of medical or other special dietary needs, to consume such foods. Such substitutions shall be made only when supported by a statement from a recognized medical authority which includes recommended alternate foods. Such statement shall be kept on file by the sponsor.

(k) *Special variations.* FNS may approve variations in the food components of the meals on an experimental or a continuing basis for any sponsor where there is evidence that such variations are nutritionally sound and are necessary to meet ethnic, religious, economic, or physical needs.

(l) *Donated commodities.* Institutions shall efficiently use in the Program any foods donated by the Department and accepted by the institution.

(m) *Plentiful foods.* Institutions shall, insofar as practicable, purchase and efficiently use in the Program foods designated as plentiful by the Department.

(n) *Sanitation.* Institutions shall ensure that in storing, preparing, and serving food, proper sanitation and health standards are met which conform with all applicable State and local laws and regulations. Institutions shall ensure

that adequate facilities are available to store food or hold meals.

(o) *Additional provision.* The State agency may allow sponsors which serve meals prepared in schools participating in the National School Lunch or School Breakfast Programs to substitute the meal pattern requirements of the regulations governing those programs (7 CFR Part 210 and 7 CFR Part 220, respectively) for the meal pattern requirements contained in this section.

§ 225.21 Free meal policy.

(a) As part of the application, applicants shall submit a statement of their policy for serving free meals at all sites under their jurisdiction. No application may be approved unless its accompanying policy statement is approved. The policy statement shall consist of an assurance to the State agency that all children are served the same meals at no separate charge and that there is no discrimination in the course of the food service.

(b) In addition, the policy statement for camps that charge separately for meals and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall include the following:

(1) A statement that the eligibility standards conform to the Secretary's family size and income standards for free and reduced-price school meals;

(2) A description of the method for accepting applications;

(3) A description of the method used by camps for collecting payments from children who pay the full price of the meal while protecting the anonymity of children receiving a free meal.

(4) An assurance that the camp will establish a hearing procedure for families wishing to appeal a denial of an application for free meals which provides for the following:

(i) That a simple, publicly announced method will be used for a family to make an oral or written request for a hearing;

(ii) That the family will have the opportunity to be assisted or represented by an attorney or other person;

(iii) That the family will have an opportunity to examine the documents and records supporting the decision being appealed both before and during the hearing;

(iv) That the hearing will be reasonably prompt and convenient for the family;

(v) That adequate notice will be given to the family of the time and place of the hearing;

(vi) That the family will have an opportunity to present oral or documentary evidence and arguments supporting its position;

(vii) That the family will have an opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;

(viii) That the hearing shall be conducted and the decision made by a hearing official who did not participate in the action being appealed;

(ix) That the decision shall be based on the oral and documentary evidence presented at the hearing and made a part of the record;

(x) That the family and any designated representative shall be notified in writing of the decision;

(xi) That a written record shall be prepared for each hearing which includes the action being appealed, any documentary evidence and a summary of oral testimony presented at the hearing, the decision and the reasons for the decision, and a copy of the notice sent to the family; and

(xii) That the written record shall be maintained for a period of three years following the conclusion of the hearing, during which it shall be available for examination by the family or its representatives at any reasonable time and place.

(5) An assurance that, if a family requests a hearing, the child shall continue to receive free meals until a decision is rendered;

(6) An assurance that there will be no overt identification of free meal recipients and no discrimination against any child on the basis of race, color, national origin, sex or handicap.

(c) Each sponsor shall annually announce in the media serving the area from which it draws its attendance, the availability of free meals. Camps and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall annually announce to all participants the availability of free meals for eligible children. All media releases issued by camps and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall include the Secretary's family-size and income standards for free and reduced-price meals and shall state that meals are available without regard to race, color, national origin, sex or handicap.

(d) For the purpose of determining eligibility for free meals, camps and other programs not eligible under § 225.2 (paragraph (1) of "areas in which poor economic conditions exist") shall distribute applications for meals to parents or guardians of children enrolled in the program. The application, and any other descriptive material distributed to such persons, shall contain only the family-size and income levels for reduced-price eligibility with an explanation that households with incomes less than or equal to these values would be eligible for free meals. Such forms and descriptive material may not contain the income standards for free meals. The application shall include the social security numbers of all adult members of the household.

Subpart E—Miscellaneous Provisions

§ 225.22 Other provisions.

(a) *Grant closeout procedures.* Grant closeout procedures for the Program shall be in accordance with Attachment K of the Office of Management and Budget Circular A–110 (41 FR 32016, July 30, 1976), or Attachment L of the Office of Management and Budget Circular A–102 (42 FR 45828, September 12, 1977), whichever is applicable.

(b) *Termination for cause.* (1) FNS may terminate a State agency's participation in the Program in whole, or in part, whenever it is determined that the State agency has failed to comply with the conditions of the Program. FNS shall promptly notify the State agency in writing of the termination and reason for the termination, together with the effective date and shall allow the State 30 calendar days to respond. In instances where the State does respond, FNS shall inform the State of its final determination no later than 30 calendar days after the State responds. (2) A State agency shall terminate a sponsor's participation in the Program by written notice whenever it is determined by the State agency that the sponsor has failed to comply with the conditions of the Program. (3) When participation in the Program has been terminated for cause, any funds paid to the State agency or a sponsor or any recoveries by FNS from the State agency or by the State agency from a sponsor shall be in accordance with the legal rights and liabilities of the parties.

(c) *Termination for convenience.* FNS and the State agency may agree to terminate the State agency's participation in the Program in whole, or in part, when both parties agree that the continuation of the Program would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date, and in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the

effective date, and shall cancel as many outstanding obligations as possible. The Department shall allow full credit to the State agency for the Federal share of the noncancellable obligations properly incurred by the State agency prior to termination. A State agency may terminate a sponsor's participation in the manner provided for in this paragraph.

(d) *Maintenance of effort.* Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under the Act and a certification to this effect shall become part of the agreement provided for in § 225.3(c).

(e) *Program benefits.* The value of benefits and assistance available under the Program shall not be considered as income or resources of recipients and their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare, and public assistance programs.

(f) *State requirements.* Nothing contained in this part shall prevent a State agency from imposing additional operating requirements which are not inconsistent with the provisions of this part, provided that such additional requirements shall not deny the Program to an area in which poor economic conditions exist, and shall not result in a significant number of needy children not having access to the Program. Prior to imposing any additional requirements, the State agency must receive approval from FNSRO.

(g) *Fraud penalty.* Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this part, whether received directly or indirectly from the Department or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $100,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

(h) *Claims adjustment authority.* The Secretary shall have the authority to determine the amount of, to settle, and to adjust any claim arising under the Program, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of the Program. This provision shall not diminish the authority of the Attorney General of the United States under section 516 of Title 28, U.S. Code, to conduct litigation on behalf of the United States.

§ 225.23 Program information.

Persons desiring information concerning the Program may write to the appropriate State agency or Regional Office of FNS as indicated below:

(a) In the States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont: Northeast Regional Office, FNS, U.S. Department of Agriculture, 33 North Avenue, Burlington, MA 01803.

(b) In the States of Delaware, District of Columbia, Maryland, New Jersey, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, FNS, U.S. Department of Agriculture, One Vahlsing Center, Robbinsville, NJ 08691.

(c) In the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee: Southeast Regional Office, FNS, U.S. Department of Agriculture, 1100 Spring Street, NW., Atlanta, GA 30367.

(d) In the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin: Midwest Regional Office, FNS, U.S. Department of Agriculture, 536 South Clark Street, Chicago, IL 60605.

(e) In the States of Arkansas, Louisiana, New Mexico, Oklahoma and Texas: Southwest Regional Office, FNS, U.S. Department of Agriculture, 1100 Commerce Street, Room 5–C–30, Dallas, TX 75202.

(f) In the States of Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming: Mountain Plains Regional Office, FNS, U.S. Department of Agriculture, 2420 West 26th Avenue, Room 430, Denver, CO 80211.

(g) In the States of Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, the Northern Mariana Islands, and Washington: Western Regional Office, FNS, U.S. Department of Agriculture, 550 Kearny Street, Room 400, San Francisco, CA 94108.

(Catalog of Federal Domestic Assistance Programs No. 10.559, Summer Food Service Program for Children)

(The Summer Food Service Program for Children is subject to Part III of Attachment A of OMB Circular No. A–95 (revised). Part III requires that Governors or their designated Plan review agency be given the opportunity to review the State plans required by Program regulations)

Note.—The reporting and recordkeeping requirements contained in this rule are subject to review by OMB under the Paperwork Reduction Act and are not effective until approved by OMB.

Dated: February 11, 1982.

Gene P. Dickey,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82–4211 Filed 2–12–82; 10:33 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/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.

REMINDERS

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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.**

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